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Supreme Court, U.S.
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In The

Supreme Court of the United States

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IN RE Luther James McCaskill,

Petitioner

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**On Petition For Writ Of Mandamus
To The United States Court Of Appeals
For The Sixth Circuit**

◆

PETITION FOR A WRIT OF MANDAMUS

◆

LUTHER JAMES MCCASKILL
In Propria Persona
C/O P.O. Box 1000
Milan, Michigan 48160

121 pp

QUESTIONS PRESENTED

1. Whether petitioner has inherent rights guaranteed and secured by the Constitution For the Republic United States (1787 and 1791) to present his defense and call witnesses of his choice as mandated by this Supreme Court.

2. Whether petitioner has an inherent right secured and guaranteed by the Constitution For the Republic United States (1787 and 1791) to have his issues presented for review to the Court of Appeals, addressed, answered and adjudicated.

3. Whether a district court or appeals court is obligated to honor Constitutional Law, when presented by an American citizen, exercising inherent rights, to petition for redress of grievances, and substantive due process of law, in a motion or petition to said court, or does that court have Constitutional authority to ignore the law as mandated by this Supreme Court.

4. Whether the United States Courts are bound by all provisions of the Constitution in a criminal proceeding such as this one or do the United States Courts have the Constitutional authority to pick and choose what provisions of the Constitution, the court wishes to honor, making up the law, as it goes, while exercising its judicial power.

5. Whether petitioner has an inherent right, after making a Constitutional demand, to be brought before an Article III Court.

REASONS WHY THE ISSUANCE OF A WRIT OF MANDAMUS IN THIS INSTANT CASE WILL BE IN AID OF THIS HONORABLE SUPREME COURT'S APPELLATE JURISDICTION WITH EXCEPTIONAL CIRCUMSTANCES THAT WARRANT THE EXERCISE OF THE COURT'S POWERS.

1. The Constitution of the Republic United States of America was written for all times and circumstances, because it embodies fundamental principles which do not change with time. The denial of petitioner's Human Rights Secured and Guaranteed by the Constitution, in the District Court, and deliberately, maliciously, arbitrarily and capriciously condoned by the Sixth Circuit Court of Appeals, (when it refused to adjudicate petitioner's Constitutional issues,) is a grave miscarriage of Justice, that not only affects petitioner, but affects every citizen in the several states united in America. "Where the law ends, tyranny begins." The failure to uphold and adhere to the constitution and uphold its sworn oath and duty, by any court, is an act of treason, usurpation, or tyranny, and cannot be regarded as mere error in judgment, but deliberate disregard for the rule of law. "This is a government of laws and not men". Acquiescence for no length of time can legalize a clear usurpation of power, where "we the people" have pledged our lives, under the flag of peace, and our will in the constitution, which is the law of this land.

2. What the Sixth Circuit Court of Appeals did to this petitioner, was to allow the will, and pleasure, of the District Court and the assistant U.S. Attorney to be followed, rather than following clearly established law. When the people spoke in Article III of the Constitution, the people were very specific and cannot be misunderstood. "The Judicial power of the United States, shall be

vested in one Supreme Court." This independent judiciary must exercise its supreme power in this instant case, and arrest acts of tyranny and despotism, which will clearly be in aid of this Court's appellate jurisdiction. When the Japanese "attacked and bombed" Pearl Harbor, the United States government had a standing army to retaliate. When Hitler was attacking, bombing and invading nation after nation in Europe, those nations, (with the aid of the United States) had standing armies to retaliate, and obtain relief. When the District Court and the U.S. Attorney's Office, joined by the Sixth Circuit Court of Appeals, attacked petitioner, by imposing their personal will, and raping petitioner, of (and the average citizen) this petitioner's human rights, this petitioner and the average citizen *does not*, nor the Constitution, employ a standing army, as a watchman to make sure that every jurist comply with the law of the land. This Supreme Court is the people's "Standing Army", and the Forever Watchman, against the "Judiciary" of Sixth Circuit Court of Appeals giving of arbitrary power to the district Court and the Assistant U.S. Attorney. The circumstances precedent to filing of this petition (as will be clearly explained in the statement of the case) are truly exceptional circumstances that cries out and begs for the exercising of this court's (discretionary) powers.

3. It is a profound fact, in this great country "There is no arbitrary power located in any individual or body of individuals." Petitioner has been and continues to be arbitrarily, capriciously, viciously, deliberately and maliciously denied his human rights, treated like a slave, and reduced to peonage all in violation of the "rights of man",

and the Constitution for the Republic United States of America. Some time back, petitioner read a series of reports, alleging secret locations of the Construction of Concentration Camps for the "internment" of American citizens by the Federal government. What a joke, petitioner thought to himself, as the "internment" is taking place daily, in the Non-Article III UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, under the "color of law, and under the color of the judiciary." We the people are illegally and unconstitutionally, "committed" to slave labor for the bureau of prisons. Such is the modern version of the centuries old institution of slavery. The United States government is bound by all provisions of the Constitution, not just the provisions, those in government, arbitrarily, and capriciously choose to honor. This court must issue its writ of mandamus, so the unchecked arbitrary will of the AUSA, the District Court and the Appeals Court, will not continue to wreak "Havoc" on we the people, of the several Republic states united in America. This criminal action if not stopped will bring grave consequences on generations to come. How long will this court allow the American people to be "colonized, and terrorized," by the federal government, in its Non-Article III (illegal and unconstitutional) courts.

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JURISDICTION

The Judgment of the Court of Appeals was entered on October 21, 2002. Petitioner responded to the Judgment of the Appeals Court, with a letter Requesting the Appeals Court, Address, answer and adjudicate the issues Petitioner presented for review on Appeal, and not Adjudicate the issues the Assistant U.S. Attorney raised on Appeal, and attribute those issues to Petitioner. Petitioner's letter was construed as a Petition for Rehearing on November 14, 2002. Said Construed Petition for Rehearing was denied on January 2, 2003. The Jurisdiction of this Supreme Court is invoked pursuant to Article III, Section 1, Clause 1, Amendment 1, Amendment V, Amendment IX and Amendment X of the Constitution for the Republic United States of America.

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STATEMENT OF THE CASE

1. On April 4, 2000, petitioner's Straw Man All Capital LETTERED (LUTHER MCCASKILL) was indicted by the United States Attorneys' Office, For Bank Fraud, and petitioner has been held to answer for said charges. Petitioner is defending himself in the case against him and has attempted to tender a number of motions to the District Court that was never answered or addressed by the Government. Until this Juncture said motions remain unadjudicated however, with the blessings and conspiratorial Fraud and deceit of the UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN, All in violation of petitioner's right to petition for redress of grievances and right to substantial due process of law, under the Bill of Rights.

2. On July 2, 2001, petitioner was Forced to submit to a totally illegal and unconstitutional trial, against petitioner's will. During said trial petitioner was arbitrarily, capriciously with malice and aforethought denied his right [rights this court has termed "Faretta Rights"] to present the defense of his choice, and was compelled [by way of order, enforced with gun] to present the defense the Government and the District Court Forced upon him. This Court has mandated "that where rights secured by the Constitution are concerned there can be no rule making or legislation to abrogate them." Petitioner was judged to be guilty, by a Jury that heard only the Government's side, and then sentenced to prison, by the District Court, using "Rules" to annul petitioner's rights.

3. Petitioner filed a timely notice of appeal and ordered a partial transcript. While waiting for said transcript to be prepared, the AUSA, Stephen T. Robinson, Noticed Petitioner, that due the fact that petitioner, did not order the complete transcript, petitioner (pursuant to Rule 10(e) of the Appeals Court) would have to present his issues to be reviewed, to the U.S. Attorney with a copy to the Appeals Court, before petitioner's Appeals Brief was prepared, in order (again subjected to another Rule) to allow the U.S. Attorney the opportunity to object to said Appeals Issues. Petitioner readily complied with the U.S. Attorney's request and forwarded his issues for review to the U.S. Attorney and the Appeals Court. NO objection came from the U.S. Attorney to petitioner's Appeal Issues. Petitioner subsequently received the transcript ordered, prepared his Appeal Brief and forwarded said brief to the Appeal Court, with copies to the U.S. Attorney and began waiting for the U.S. Attorney's reply brief. The U.S. Attorney until this date, has ***never*** adjudicated the sound

Constitutional issues placed before them. Thus petitioner remains in Limbo (enslaved) without this petitioner's rights being respected, rights guaranteed petitioner by the Bill of Rights, Rights granted petitioner by the "Great Legislator in the sky", The Creator.

4. Petitioner received a so-called "Reply Brief" from the U.S. Attorney, albeit, to petitioner's [shocking to his conscious] surprise, the U.S. Attorney's "Reply Brief" was in fact, and in reality, an appeal brief, as in their brief the U.S. Attorneys did not reply to, address or in any way, shape, form or fashion, reply to the issues petitioner presented for review on appeal. The U.S. Attorney's brief gave the appeals Court the issues the U.S. Attorney's Office wanted the Appeals Court to address, without the U.S. Attorney filing a traverse Cross Appeal. Petitioner tendered a "reply brief", wherein petitioner clearly explained that petitioner could in no way address the totally irrelevant, unfounded and improper issues raised by the U.S. Attorney's Office in their alleged "Reply Brief" and issues, no matter how thoses issues pushed before the Court, and those issues had absolutely nothing to do with the issues raised, by petitioner on appeal, as petitioner would reiterate his original issues with further argument and case law, in hopes that the Appeals Court would adjudicate petitioner's issues as presented by petitioner rather than accepting a brief from the U.S. Attorney that had no basis to be before the Court. Petitioner, not the Government has a right to an appeal in this instant case. By way of Rules and procedures (a "silent weapon for quiet war" was exercised on petitioner) petitioner *never* had a trial, the Government had a trial. By way of surreptitious Appeal by the U.S. Attorney, this petitioner *never* had an appeal hearing, the Government had a hearing. The record

and files will clearly show that the Government in this instant case, had a trial and the Government had an appeal hearing; all accomplished by a form "Biological Warfare", "human terrorism", and enslavement.

5. Petitioner received an order from the Appeals Court, said order, absolutely addressed none of petitioner's first four issues raised by petitioner on appeal. While the order did not adjudicate or address petitioner's issues, the order for the most part, was and is a condensed parroting of the U.S. Attorney's surreptitious Appeals, *NOT* reply brief. The Court did loosely Rule on one of petitioner's issues, albeit, not with Constitutional Law. It is unequivocally certain that the U.S. Attorney's Office and the Appeals' Court conspired to abrogate petitioner's right to petition for redress of grievances, as petitioner has not or never had his issues reviewed or adjudicated on appeal, thus *no hearing* on appeal. After receiving said order, petitioner forwarded a letter to the Appeals Court, stating that petitioner's issues were not addressed, but the court addressed the U.S. Attorney's issues, and attributed the U.S. Attorney's issues to petitioner, all in total violation of petitioner's right to be heard on appeal. Petitioner's issues has not been reviewed nor adjudicated.

6. After the Appeals Court received petitioner's letter, petitioner received an order from the Court recalling the mandate, and stating that "the court would construe petitioner's letter as a petition for rehearing", albeit, in petitioner's letter, petitioner made it quite clear that there had been *no* hearing on the constitutional issues presented by petitioner in the first place. How can there be a rehearing, when there has *never* been a hearing? The final straw was January 2, 2003, when the Court's Clerk issued another order, denying the construed rehearing and

affirming the District Court, as there was no "misapprehension" on the part of the Court. Petitioner was again "shocked" as petitioner never raised the issue of misapprehension by the Court. Petitioner did raise the issue and facts that the Appeals Court *never* adjudicated, reviewed, addressed or answered the issues presented for review by petitioner, all in violation of petitioner's rights, secured and guaranteed by the Constitution for the United States of America. The action by the U.S. Attorney and the Court of Appeals is unequivocally an act of Fraud. Fraud and Justice *never* dwell together. Out of Fraud no action arises. Deceit and fraud shall not defend, excuse or benefit any man. The aforesaid fraud has been perpetrated on petitioner by officials sworn to uphold the Law, while operating under a pretense, behind a veil of righteousness, under color of law. Petitioner was born and raised in Mississippi. Petitioner lived and suffered through much aggression during the "Civil Rights era and movement". The action by Government Officials in this instant case brings to mind a vivid crisis known to me and this Honorable Court as *Price v Johnson*. The truth and reality of the past is revisited in *U.S.A. v McCaskill*, as the Government Officials used their perceived, superior intelligence, to carefully and methodically redefine the ancient ruling of *Dred v Sanford*, as in fact and in reality, petitioner is being treated like a being of a lesser order, with no rights to be respected or honored, who deserves no trial, who deserves no trial, who deserves no right to appeal, in essence, enjoy no rights under the Constitution. *How* can this be?

7. This Court must protect petitioner and "we the people" from such unauthorized aggression and unjust war by sworn officials of the government, as under Article III, it is this court's profound duty. The United States District

Court Eastern District of Michigan, the Sixth Circuit Court of Appeals, and the U.S. Attorney, has knowingly, willingly, maliciously, deliberately, intentionally with malice aforethought, conspired to deprive petitioner of his human rights, rights that are guaranteed and secured by the constitution of the Republic United States of America, thereby reducing petitioner to a slave with no rights. It is the duty of the government and its officials, especially the Judiciary to prevent injustice. Petitioner has the unfettered right, authority and standing to file this petition for a writ of mandamus, as petitioner has a right (both human and constitutional) to have his issues reviewed, answered and adjudicated by the Court of Appeals. This court, under Article III, is the Supervisory Court of the Appeals Court, and has the constitutional obligation and duty to issue its Writ of Mandamus ordering the Appeals Court to hear, review and adjudicate the issues presented by petitioner. This is a *clear* and *indisputable* right endowed upon petitioner by his Creator (The Laws of Nature, Devine Laws) and secured by the Constitution of the United States of America.

8. Petitioner states, and all official records will clearly show, the appropriateness of the Writ of Mandamus in this instant case. Upon review of the factors this Court has delineated to be considered in ruling on a petition for a Writ of Mandamus:

(a) Petitioner unequivocally has no other means of appellate review, as the Appeals Court has arbitrarily and Capriciously refused to allow petitioner to exercise his right to an appeal, secured by the First Amendment to the Constitution "Petition For Redress", by deliberately oppressing petitioner's issues with coercion and control from the U.S. Attorney's Office, all designed to deprive petitioner of his rights under the "Bill of Rights". What Criminal Actions!

(b) The potential uncorrectable damage is irreversible. Without this court's issuance of a Writ of Mandamus, this court will be allowing a miscarriage of justice to go unchecked. Proof can be had from the records and files, that without the Appeals Adjudicating petitioner's issues, petitioner will never get his "Day in Court of Justice", which is the aim of civil society (and the founding forefathers) as sure means of obtaining one's fair treatment and justice, while defending the whole body of citizens (we the people) against all harmful actions, actions contrary to the welfare and happiness endowed upon them by their Common Creator. The body of a Nation, therefore, may not abandon, an individual, belonging to it, unless necessity should constrain it to do so. There is nothing going on in the United States, to give those government officials the right to suspend petitioner's exercise of his rights. Petitioner has a right not to be irreversibly damaged.

(c) Petitioner has a clear entitlement to the relief sought under the Bill of Rights, as Petitioner is not a "slave", albeit presently enslaved, with no rights. The only way petitioner is going to have his issues reviewed and adjudicated by the Appeals Court is this honorable Court issue a Writ of Mandamus, ordering the court to review and adjudicate petitioner's issues. Petitioner avers that it is the duty of this Court to be ever on the watch that the Constitution be equally applied and respected by both those who govern and by those people who are governed by them. To attack the Constitution and violate the laws drafted therefrom, is a capitol crime against society; and if the persons who are guilty of that attack, are those in authority, they add to this crime a perfidious abuse of power confided in them. This Court must uniformally put down such aggression and violations with all the vigor and vigilance, which the importance of this case demands, as the Constitution and laws drafted therefrom of a nation are rarely attacked from the front; it is against secret gradual attacks this Court must chiefly guard. Consequently, in the interest of justice for petitioner and every citizen that depends on the Sixth Circuit Court of Appeals, for reviewing and adjudicating their issues, this Court must issue its Writ of Mandamus, thereby bringing a halt to a grave miscarriage of justice.

(d) Petitioner states and the official records, files and facts will show conclusively, that there are other factors involved in instant case, as the appeals court's Order is clearly erroneous, as a matter of constitutional law. Every American Citizen has a right to an appeal. Petitioner has been *denied* his right to an appeal by the Appeals Court deliberately applying "silent weapons for quiet wars". This type of weapon makes no obvious noise, or physical injury, yet it make a most unmistakable "noise, cause unmistakable physical damage". The public (we the people) does not have the knowledge and intelligence of law to comprehend this weapon, and therefore cannot believe that they are being attacked and subdued by a weapon such as this. When a silent weapon is applied, gradually to the public, the public adjust/adapts to its presence and learns to tolerate its illegal and unconstitutional encroachment on their lives, therefore the silent weapon is a type of "Biological Warfare". Petitioner thinks it is important to note here; that this same type of encroachment on Human Rights was used in Russia, in Nazi Germany, in China and the majority of the third world countries that do not honor the freedoms of our great country. How can this court allow this terrorism to continue? "How long will the judge unjustly and accept the presence of the wicked", "do justice to the poor and needy". What the Sixth Circuit Court of Appeals has done to this petitioner is nothing short of taking a gun, putting it to petitioner's head and robbing him of his rights, thrusting petitioner into "slavery" all in violation of petitioner's rights secured and guaranteed by the Constitution for the Republic United States of America. Said action by the Sixth Circuit Court of Appeals is likely to recur, again, again and again against "we the people", which is of great public importance. We "must be true to our constitution". See attached Newspaper article.

WHEREFORE, in view of the foregoing statements and facts, petitioner prays this honorable Court will issue its Writ of Mandamus ordering the United States Court of Appeals for the Sixth Circuit to Hear petitioner's issues as presented by petitioner for review and adjudicate said issues in accordance with the mandates of the Bill of Rights in the interest of Justice, American Jurisprudence and Fundamental Fair Play. Petitioner will forever pray.

Respectfully Submitted,

Dated: 1/20/03

/s/ Luther James McCaskill
Luther James McCaskill,
In Pro Per
C/O P.O. Box 1000-FDC
Milan, MI 48160

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AFFIDAVIT IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

Let Justice Be Done, Though The Heavens May Fall!

I, Luther James McCaskill, the Petitioner and undersigned Affiant do hereby herein, solemnly Certify and swear on Affiant's unlimited Commercial Liability, that I am competent to state the matters set forth herewith. I have personal knowledge of the facts stated herein. All of the facts stated herein are true, correct, complete and certain. Said facts are admissible as evidence, and if testifying I shall state said facts for and on the record. Petitioner is *not* a Corporate Legal Fiction; Petitioner is a living, Sentient being, of Sound Mind, with all absolute, unalienable Human Rights, and the power to uphold said absolute inalienable human rights intact. All of the attached Exhibits, are true, correct, complete, certain and admissible as evidence.

WHEREAS, in the Unanimous Declaration of the several (13) states united, known as the "Declaration of Independence", of July 4, 1776, which is the "Birth Certificate" of the United Republic States of America, it is stated that "we hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain Unalienable Rights, that among these, are Life, Liberty and the Pursuit of Happiness. That to secure these rights, governments are instituted among men deriving their Just Powers from the consent of the governed." After reading the preceeding passage from the "Declaration of Independence", it is without question, that the Founding Patriots and Framers of the Constitution for the Republic United States of America, intended that the

United States Government secure and guarantee the human rights of American Citizens, not totally and audaciously disregard said Human Rights. Petitioner readily recognizes that the remedy of mandamus is a drastic one, to be invoked only in extraordinary situations, where the petitioner can show a clear and indisputable right to the relief sought. I do so swear and certify. WHEREAS, according to the legal essays of the Legendary Sir John Locke, Natural Sovereign Man once lived independent, an isolated Life in a State of Nature, as a real and natural government unto himself [evidently proclaimed by Thomas Jefferson within the Declaration of Independence]. For causes of necessity, mainly the intercourse (communicating; literally, a running or passing between persons or places) of associating with his fellow man, mankind entered into social and political compacts, thus forming a desired society, and thereby constituting an artificial government (FEDERAL GOVERNMENT) by the Will, and for the benefit of the people. This sole artificial governmental creation was based upon the principles of securing and maintaining the desired will of the people, by Contract, and not the contract over the peoples desired will. This truth is evident within the Declaration of Independence. Therefore, by entering into an artificial compact, mankind relinquished the exercise of *not all*, but part of his natural *Rights*, and in return, expected the *full protection*, by the terms of the contract, of those natural rights by the government against his fellow man and against any and all forms of adulterated government, both foreign and domestic. Tragically, what has evolved in our great country is commonly known to the American People as "Corrupted Government" and in the legal community as "Breach of Contract". It is the profound duty and obligation of this Supreme Court to protect "We the people" from this corrupted government. The Soviet Union endured for a little over 70 years before she imploded into civil war; Nazi Germany imploded quickly for the tyranny was so great; Persia, Babylon, Rome and Greet Britain over the Colonies, as well as every other civilization throughout history that replaced *liberties* with *tyranny*, have all been either changed by a declaration of liberty, or imploded unto their own absolute destruction. One may predict the future simply by analyzing the past and comparing the conditions and results of previous societies with our present condition in our great country. This court must grant this petitioner this Writ of Mandamus in the interest of true justice.

I do certify and swear.

WHEREAS, the Constitution of the United States is a grant of limited powers to the Federal Government, as the delegates to the Constitutional Convention, prior to the formation of our union of states, were very jealous of their power to rule themselves as states. There was much argument as to how much power the individual states should relinquish in order to form a union for mutual good. Even a modest review of those proceedings will prove this is solid doctrine. After the successful conclusion of the Convention, and some years later, Chief Justice Marshall stated in *McCulloch v Maryland*, 4 Wheat 316, 405 (1819):

> "This government is acknowledged by all, to be one of enumerated powers. The principle, that it can exercise only the powers granted to it, would seem apparent, to have required to be enforced by all those arguments which it's enlightened friends, whilt it was depending before the people, found it necessary to urge; that principle is now universally admitted."

Petitioner finds in *Black's Law Dictionary; Revised Fourth Edition (1968)* that the word "enumerated" is defined as "Mentioned specifically or designed or expressly named or granted". It is an inescapable conclusion that the three branches of the Federal Government have limited and enumerated powers. In view of the comments of Justice Marshall in *McCulloch v Maryland*, supra and the definition of enumerated, it would seem unnecessary to argue this point. However, the District Court and the Sixth Circuit Court of Appeals think petitioner is and have been making "worthless" motions so additional argument must follow, as a certain necessity. During the early years of our nation, the Judges of the Federal Courts were very careful to avoid overstepping their enumerated powers. In each case, the courts were very careful to note whether it had jurisdiction or not. As for instance, when the Supreme Court stated "The Legislative authority of the Union, must make an act a crime, affix a punishment to it, and declare the court that shall have jurisdiction. Certain implied powers must necessarily result to the courts of Justice from the nature of their institution. But Jurisdiction of crimes against the states is not among those powers. The United States District Court for the Eastern District of Michigan has assumed Jurisdiction over petitioner, in this case, by implication, and obviously, under our constitution, that is not allowed. See *U.S. v Hudson*, 11 U.S. 7 (1812) and *Turner v Bank or North Carolina*, 4 Dall 8, 10 (1799). When the Federal Courts claim jurisdiction because of their despotic actions, a citizen rights secured by the constitution are not preserved, and the irony of this is the defendant must take on the obligation of the U.S. Attorney and the Court and prove that they do not have jurisdiction. This method of conduct was ruled out many, many years ago, in *Mayfield's Lessee v Levy (1)*, 4 U.S. 330 (1797):

> "The jurisdiction of this court is not prima facia general, but special. A man must assign a good reason for coming here. If the true fact is denied, upon which he grounds his right to come here, he must prove it. He, therefore, is the actor in the proof; and, consequently, he has no right, where the point is contested, to throw the ONUS Probondi on the defendant".

This petitioner has searched far and wide and have been totally unable to find any grant of power under the United States Constitution to have the Federal District Courts adjudicate Civil Rules and Statutes in Criminal Court Cases, over citizens of the several (50) Republic States United in America. I do certify and swear.

WHEREAS, the general misconception is that any Rule or Statute passed by Legislators bearing the appearance of law constitutes the law of the land. Any rule or statute, to be valid, must be in agreement, It is impossible for any rule of law which violates the constitution to be valid.

The people are the masters of both Congress and Courts, not to overthrow the constitution, but to overthrow the man who perverted the constitution. The Founding Framers felt that the Liberties of the people could never be wholly lost as long as the Jury remained strong and independent, and that unjust laws and statutes could not stand when confronted by conscientious Jurors. Jurors not only have the power and right, but also the duty to judge the whole truth. If the government can manipulate and control both the law and evidence, the issue of fact becomes virtually irrelevant. In fact and in reality, there was or is no true justice or trial by jury in petitioner's case just a trial by the government. In this petitioner's case, the government has been arbitrarily and capriciously given the power to dictate and decide what fact, law and evidence are applicable. If people acting in the name of government are permitted by the courts to dictate anything or law whatever, how can there be a constitutional protection for any accused citizen? I do certify and swear.

WHEREAS, the District Court and Appeals Court in petitioner's case may think that the jurisdiction issue might be worthless", however, throughout 150 years of Supreme Court Decisions researched by petitioner, the Supreme Courts are unanimous in the opinion that jurisdiction is anything but worthless. The Supreme Court consider the issue of the utmost importance. *James Brown v Richard Keene*, 33 U.S. 112, 115 (1834). The various Supreme Courts down through the years used different words to convey the seriousness of this issue, but all came to the conclusion that jurisdiction was very important, and certainly not frivolous. Note the following:

> "This Court is one of limited and special original jurisdiction, its action must be confined to the particular cases, controversies and parties over which the constitution and Law have authorized it to act; any proceeding without the limits prescribed, is carom no judice, and it action a nullity."

See *The State of Rhode Island, et al. v The Commonwealth of Mass.*, 37 U.S. 657, 719 (1838). Petitioner asks if that sound like they think the issue of jurisdiction is "frivolous". Americans today are operating within the realm of sensations, knowing extensively within their self-conscious that something is drastically corrupt within the interior of their present form of government. Never the less they are deficit of the legitimate knowledge, as to give a self-explanatory resolve to their mental and physical anguish. In truth, tragically and diabolically, as planned by our government, a considerable sum of individuals actually possess the higher knowledge of law, combined with the morals, the virtues, and the integrity, as to ethically and scientifically reinstate the society within America today that our Founding Forefathers and patriots envisioned when forging the creation of the United States of America. This petitioner apprehend, by personal first hand knowledge that the documented truth contained in this affidavit, with knowledge, wisdom and understanding will severely fracture the unseen chains of bondage and set free the patriotic hearts that are being held captive and suppressed under the deficiency of higher knowledge, (the higher knowledge of law) utilized by the Framers of our Constitution. Such a deficiency is the sole determent that forged a generation of subservients, in an absolute state of apathy and despotism.

I do certify and swear.

WHEREAS petitioner concludes and states unequivocally that the U.S. Government & United States District Courts, Non-Article III Courts, has perpetrated a gigantic hoax, or perhaps even a gigantic crime, against the American People, by charging citizens with so-called crimes, that may not in fact, be crimes, and bringing suit against such citizens in courts without jurisdiction to try the cases. There are so many court cases supporting this challenge that this petitioner could fill volumes, as the early Supreme Courts protected the rights of the people. Petitioner researched cases, primarily, that came about in the early life of our nation, because most jurisdictional arguments were quickly raised during that period of our nation. The early cases show that the Supreme Court acknowledged that Congress was the Creator of the United States District Courts, and those courts had no power other than that which was specifically given them by Congress. Congress may not expand the jurisdiction of the Federal Courts beyond the bounds established by the Constitution. E.g. in *Exparte Bollman & Swartout*, 8 U.S. 75, 93, 94 (1807) the Supreme Court through Chief Justice Marshall stated:

> "As a preliminary to any investigation of the merits of this motion this Court deems it proper to declare that it disclaims all jurisdiction not given by the Constitution, or by the Laws of the United States. Courts which are created by written law, and whose, jurisdiction is defined by written law, cannot transcend that jurisdiction. To enable the Court to decide on such questions, the power to determine it must be given by written law."

See *Hudson v Goodwin*, 7 U.S. 32, 33, 34 (1812) and earlier in 1797 in *Maxfields Lessee v Levy (1)*, 4 U.S. 308-312 (1797), the Supreme Court stated rather somewhat indignantly:

> "No Court in America ever yet thought, nor, I hope, ever will, of acquiring jurisdiction by a fiction. It is evident that we are not to assume a voluntary jurisdiction, because we think, or others may think, it may exercised innocently, or even wisely. The Court is not to fix the bounds of its own jurisdiction, according to his own discretion."

I do Certify and Swear.

WHEREAS, as James Madison, (4th President of the United States) stated "the principle secret to understanding the science of law is to simply combine mathematics with the written law. Mathematics is the mechanics to the law as Justice is the Soul of the Law. Justice is the constant and perpetual disposition to render every man his due. Justice consists simply of letting every one enjoy the rights, which he has acquired in virtue of life and secured by law, the constitution! It is very hard if not impossible for this petitioner to understand how the constitution, and constitutional law, in this great country of ours, has been replaced with the sole will of the Corporate Federal Judges to perform their services in any manner whatsoever and however their seemingly corruptive hearts contend. The common law jury of the Constitution for the United States of America (1789 & 1791) has been arbitrarily and capriciously replaced with *homage* and *advisory* Juries. Juries directing the homage and advisory to the high priest dressed in a priest's black robe to enact whatever his immoral and corruptive heart desires. The distress and sufferings inflicted upon this petitioner and the American People, are the fruits of that system of policy (not law) which is continually striving to enlarge the authority of the Federal Government beyond the limits fixed by the Constitution for the United States of America. The power enumerated in that instrument do not confer on Congress to establish rules and regulations in the several states to abridge or eviscerate the rights of the American People, rights secured and guaranteed by the Constitution. "Let us abide by the Constitution as it is written." This petitioner thanks his Creator that he was born in the Land of Liberty, a land where the Founding Forefathers principally Johns Amdams, Benjamin Frankling, Thomas Jefferson, Robert R. Livingston and Roger Sherman, being possessors of the higher knowledge in the science of law, utilized the *Law of Nations*, as well as the fundamental principles distinctive of John Locke's Second Treatise on Civil Government (1690) to proclaim their liberties as free sovereign and independent people decreed by the "Declaration of Independence" (1776).

WHEREAS, for the United States District Court and the Sixth Circuit Court of Appeals to arbitrarily and capriciously abridge the rights of this petitioner is an obscenity that defiles our Declaration of Independence, signed over 225 years ago in Philadelphia. We fought a great revolution for independence and individual Liberty, but now this country is betraying freedom by embracing slavery. We are not celebrating Jefferson and Madison, but celebrating *Marx* and *Lenin*. Therefore it is obvious that not only has war been declared, ***the war has begun***! All of the unconstitutional criminal and immoral acts done to petitioner by the United States District Court and the Sixth Circuit Court of Appeals were done under the fraudulent authority of a formal "Declaration of War" against petitioner as one of *The American People*, via foreign jurisdictions to the Constitution for the United States (1787 & 1791), which is *Misprison* against the Republic United States of America, and the citizens thereof "We the People". Petitioner wishes to direct this Court's attention [at risk of raising the Court Ire] to Article 6, Clause 2 of the Constitution for the United States, the Supremacy Clause" with sincere hopes that this Court will discharge its constitutional duty and grant petitioner the Writ of Mandamus ordering the United States Court Appeals for the Sixth Circuit to give this petitioner his day in Court, by hearing the issues petitioner raised on appeal.

I do Certify and Swear.

WHEREAS, for all intents and purposes, the Federal Government owns petitioner like a slave. Petitioner is nothing more than a piece of meat, like sheep or cows, to be shipped from place to place. The legal basis for his detention, is like many "double speak" laws, it suspends the 1st, 4th, 5th, 6th and 10th Amendments to the Constitution, virtually allowing anyone the Federal Government accuses of virtually any law, to be held illegally, giving power to a federal judge to use his discretion to eviscerate the constitution and human rights of "we the people". The rules (not law) have apparently changed in the past 60 years. Despite much reasoned opposition and Supreme Court mandates, the Federal Government has cast aside a critical principle of constitutional law, and thereby decided that the "ends justify the means". It is evil enough that the Corporate Federal Government would make war on its own citizens, but to do so in such an ignoble, pitiless and win-at-all-costs manner, as these public servants are treating petitioner now, has left those who claim to make and enforce the laws, completely bereft of any shred of decency or moral authority. It is very easy (after witnessing the government at work) to understand how this nation, a nation of "freedom" has more people incarcerated than any other nation on the planet in fact, this country has more people incarcerated than the whole continent of Europe, when Europe has a hundred million more people than this country. *Something is Drastically wrong*!, which requires drastic action in this case. It is easier for most people to believe that Elvis is alive, than recognize that the Federal Government is criminally out of control, and it is the duty of this Supreme Court to stop the government *Marbury v Madision*, 5 U.S. 137, 2 L.Ed 60 (1803) for mandamus in a criminal case, all laws which are repugnant to the constitution are null and void.

I do Certify and Swear.

In the case of *Allied Chemical Corp v Daiflow, Inc.*, 449 U.S. 33, 66 L.Ed.2d 193, 101 S.Ct. 188 this Supreme Court has recognized that traditionally, the writ of mandamus is used in the Federal Courts only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so. *Will v United States*, 389 U.S. 90, 95; 19 L.Ed.2d 305, 88 S.Ct. 269 (1967); *Bankers Life & Cas. Co v Holland*, 346 U.S. 379, 382-385, 98 L.Ed 106, 74 S.Ct. 145 (1953), *Exparte Fahey*, 332 U.S. 258, 259, 91 L.Ed 2041, 67 S.Ct. 1558 (1947). It is not disputed that the remedy of mandamus is a drastic one, to be invoked only in extraordinary situations. *Roche v Evaporated Milk Assn.*, 319 U.S. 21, 26, 87 L.Ed 1185, 63 S.Ct. 938 (1943).

All of those situations fit petitioner's case, unequivocally. There is no discretion to a judge denying a "clear and indisputable right." That matter is not committed to discretion. Mandamus is ordinarily appropriate in those rare cases in which the issuance (or non-issuance) of an order presents a question anent the limits of judicial power, poses some special risks of irreparable harm to the appellant and is palpably erroneous. *Mallard v United States District Court*, 490 U.S. 296, 308-09, 109 S.Ct. 1814, 1821-22, 104 L.Ed.2d 318 (1989).

Schlagenhauf v Holder, 379 U.S. 104, 85 S.Ct. 234, 238, 13 L.Ed.2d 152 (1964) Advisory mandamus has its roots in the Court's reference to mandamus review of basic undecided questions. It is appropriate when the issue presented is novel, or great public importance, and likely to recur. In a smaller class of cases, mandamus may lie, even though all the usual standards are not met. This tiny class of cases involves advisory rather than supervisory mandamus.

Mandamus here is important in the right way. It poses an elemental order to exercise authority that should have been naturally exercised as an obligation and profound duty.

WHEREAS, I Luther James McCaskill, Affiant and Petitioner herein, do not now and never will waive my unalienable Right against involuntary servitude, economic slavery, and peonage, becoming a statistic in the silent forever continuing slave trade of America; being exposed to Fraudulent inducement to contract, fraudulent concealment after the fact, Fraud out of Court, injustice in the Court, unlawful conversion of assets and property and a host of other atrocities. I Luther James McCaskill, will never contract knowingly and willingly, from under the protection of the "Common Law" from under the protection of Nature and God's Law. I do swear.

FURTHER, DEPONANT/AFFIANT SAYETH NOT: Attestion at Common Law:

/s/ Luther James McCaskill
Luther James McCaskill,
Pro Per, Sui Juris,
Petitioner/Affiant
C/O P.O. Box 1000-FDC
Milan, Michigan 48160

Witnesses

/s/ Wayne Deitz
Wayne Deitz

/s/ Melody Joy Baker
Melody Joy Baker

Jurat

State of Michigan)
)
County of Monroe)

Subscribed and sworn before me Melody Joy Baker a Licensed Notary in the State of Michigan, County of Monroe, This 24 day of January A.D. 2003

Witness My Hand and Seal /s/ Melody Joy Baker
Notary Public Monroe County

My Commission Expires:

____

MELODY JOY BAKER
Notary Public – Michigan
Monroe County
My Commission Expires
Sep 9, 2006

/s/ Luther James McCaskill

No. ________

◆

In The
Supreme Court of the United States

◆

IN RE Luther James McCaskill,

Petitioner

◆

On Petition For Writ Of Mandamus To The United States Court Of Appeals For The Sixth Circuit

◆

APPENDIX TO PETITION FOR A WRIT OF MANDAMUS

◆

APPENDIX

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No. 01-2708

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. LUTHER MCCASKILL, Defendant-Appellant.	)	ORDER (Filed Oct. 21, 2002)

NOT RECOMMENDED FOR FULL TEXT PUBLICATION

Sixth Circuit Rule 28(g) limits citation to specific situations Please see Rule 28(g) before citing in a proceeding in a court in the Sixth Circuit, if cited, a copy must be served on other parties and the Court.
This notice is to be *prominently* displayed if this decision is reproduced.

Before: BATCHELDER and COLE, Circuit Judges; GRAHAM, District Judge.[*]

Luther McCaskill appeals from his judgment of convictions and sentence. The case has been referred to a panel of the court pursuant to Rule 34(j)(1), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

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[*] The Honorable James L. Graham, United States District Judge for the Southern District of Ohio, sitting by designation.

In 2001, a jury convicted McCaskill of one count of conspiracy to commit fraud in violation of 18 U.S.C. § 371, two counts of possessing and uttering a forged security in violation of 18 U.S.C. § 513, two counts of bank fraud in violation of 18 U.S.C. § 1344, six counts of monetary transaction offenses in violation of 18 U.S.C. § 1957, and two counts of interstate transportation of forged checks in violation of 18 U.S.C. § 2314. The district court sentenced McCaskill to 105 months of imprisonment and three years of supervised release, and the court ordered McCaskill to pay $600,000 in restitution and imposed a $1300 special assessment. In this timely appeal, McCaskill argues that: 1) the district court lacked jurisdiction over his crimes; 2) the district court improperly denied his request to subpoena witnesses; and 3) his jury did not represent a fair cross-section of the community.

McCaskill first argues that the district court lacked subject matter jurisdiction over his offenses because they did not occur on federal territory and because he is a sovereign citizen of the state of Michigan, not the United States. This argument is patently meritless. Federal courts have exclusive jurisdiction over offenses against the laws of the United States under 18 U.S.C. § 3231, and the permission of the states is not a prerequisite to exercise that jurisdiction. *United States v. Sitton,* 968 F.2d 947, 953 (9th Cir. 1992); *United States v. Allen,* 954 F.2d 1160, 1165-66 (6th Cir. 1992). Moreover, Article I, Section 8 of the United States Constitution grants Congress the power to create, define, and punish crimes irrespective of where they are committed. *United States v. Mundt,* 29 F.3d 233, 237 (6th Cir. 1994).

McCaskill next argues that the district court improperly denied his motion to issue subpoenas under Fed. R.

Crim. P. 17(b). This court reviews a district court's denial of a Rule 17(b) motion for an abuse of discretion. *United States v. Moore,* 917 F.2d 215, 230 (6th Cir. 1990). A defendant is not automatically entitled to a Rule 17(b) subpoena; rather, the defendant must first make a preliminary showing that the witness is necessary to present an adequate defense. *Id.* A satisfactory showing of necessity requires that the defendant's averments be sufficiently specific, and generalities are not sufficient to make the required showing. *United States v. Barker,* 553 F.2d 1013, 1020-21 (6th Cir. 1977). We conclude that the district court did not abuse its discretion in denying McCaskill's motion under Rule 17(b).

Lastly, McCaskill argues that his jury venire was not drawn from a fair cross-section of the community. While a jury must be drawn from a fair cross-section of the community, no right exists to a jury of any particular composition. *Taylor v. Louisiana,* 419 U.S. 522, 527-28 (1975). To establish a prima facie violation of the fair cross-section requirement, the defendant must show that: 1) the group alleged to be excluded is a distinctive group in the community; 2) the representation of this group in the venire from which juries are selected is not fair and reasonable in relation to the number of such persons in the community; and 3) this underrepresentation is due to systematic exclusion of the group in the jury-selection process. *Duren v. Missouri,* 439 U.S. 357, 364 (1979).

McCaskill's claim is without merit. McCaskill alleges that, based on his own observations, African-Americans constituted only 20% of his jury pool, even though they comprise over 50% of the population in his community. Even if it is assumed that McCaskill's allegations are sufficient to meet the first two requirements of the prima facie case, he has made no showing, beyond his own conclusory assertions, that this underrepresentation is the result of systematic exclusion. McCaskill's failure to point to any evidence supporting a prima facie violation of the fair cross-section requirement defeats this claim. *See United States v. Allen,* 160 F.3d 1096, 1103-04 (6th Cir. 1998) (no Sixth Amendment fair cross-section violation where defendants failed to meet second and third prongs of prima facie case).

Accordingly, this court affirms the district court's judgment. Rule 34(j)(2)(C), Rules of the Sixth Circuit.

ENTERED BY ORDER
OF THE COURT

/s/ [Illegible]
Clerk

Case No: 01-2708

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

ORDER

(Filed Nov. 13, 2002)

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

LUTHER MCCASKILL

Defendant-Appellant

The court has received a pleading which will be construed as a petition for rehearing.

It is **ORDERED** that the mandate be recalled to allow the court to consider said petition.

ENTERED PURSUANT TO RULE 45(a), RULES OF THE SIXTH CIRCUIT.
Leonard Green, Clerk

/s/ Leonard Green, STB

No. 01-2708

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. LUTHER MCCASKILL, Defendant-Appellant.	ORDER (Filed Jan. 2, 2003)

Before: BATCHELDER and COLE, Circuit Judges; GRAHAM, District Judge.[*]

Luther McCaskill petitions the court to rehear its order affirming his judgment of convictions and sentence. Upon consideration, the panel concludes that it acted under no misapprehension of law or fact in issuing its prior order.

Accordingly, the petition for rehearing is denied.

ENTERED BY ORDER
OF THE COURT

/s/ Leonard Green, STB
Clerk

---

[*] The Honorable James L. Graham, United States District Judge for the Southern District of Ohio, sitting by designation.

CASE NO. 01-2708

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA
Plaintiff-Appellee

v.

LUTHER MCCASKILL
A Fiction, Corporation
Defendant-Appellant

Luther James McCaskill
Third Party Intervener
Accused-Appellant

On Appeal From The
UNITED STATES DISTRICT COURT
For the EASTERN DISTRICT OF
MICHIGAN AT DETROIT
District Court No. 00-80239

Brief of Appellant Luther James McCaskill

Luther James McCaskill, Pro-Per
c/o P. O. Box 1000 – FCI
Milan, Michigan 48160

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Case Number: 01-2708

Case Name: UNITED STATES OF AMERICA v. LUTHER MCCASKILL

PRO SE APPELLANT'S BRIEF

Directions: Answer the following questions about the appeal to the best of your ability. Use additional sheets of paper, if necessary, not to exceed 30 pages. Please print or write legibly, or type your answers double-spaced. You need not limit your brief solely to this form, but you should be certain that the document you file contains answers to the questions below. The Court prefers short and direct statements.

Within 28 days you should return your completed brief to:

The Office of the Clerk
United States Court of Appeals, Sixth Circuit
524 Potter Stewart U.S. Courthouse
Cincinnati, Ohio 45202-3988

---

(1) Did the District court incorrectly decide the facts? Yes
If so, what facts?
See attached statement of the case and facts.

(2) Do you think the District Court applied the wrong law? Yes
If so, what law do you want applied?
The United States Supreme Court mandates, of United States Constitutional Law, which is the Supreme Law of this Land.

(3) Do you feel that there are any other reasons why the District Court's judgment was wrong? Yes If so, what are they?
It seems that the DISTRICT COURT thinks it can operate without following the rule of Law, as the DISTRICT COURT totally ignored the United States Constitution and the mandates of the United States Supreme Court in this case.

(4) What action do you want the court to take in this case?
Follow the Law, as mandated by the United States Constitution, and the United States Supreme Court, reverse and dismiss Appellant's case.

(5) What specific issues do you wish to raise on appeal?
All of the issues Appellant wishes to raise on Appeal are expressed on attached pages of Statement of Issues For Review.

I certify that a copy of this brief was sent to opposing counsel via U.S. Mail on the 8th day of April, 2002.

/s/ Luther James McCaskill
Signature (Notary not required)

Statement of the Case and the Facts

Appellant, Luther James McCaskill, was arrested on March 20, 2000, by agents of the FBI, at Appellant's home in the city of Detroit, state of Michigan, on a Complaint, charging Appellant with Bank Fraud in Violation of 18 USC 1344. Appellant was subsequently denied bond. On April 5, 2000, Appellant's Legal Fiction, **"Straw Man,"** LUTHER MCCASKILL, was indicted, charged with Bank Fraud, Transportation of Forged Security, Interstate Transportation of Forged Check, and Monetary Transaction Offense.

At the time of his arrest, Appellant was assisted by legal counsel. Said legal counsel later withdrew from Appellant's case, and Appellant took control of his case. Shortly after taking control of the case, Appellant filed, timely, a number of Motions; see Joint Appendix and court docket. All of the Motions filed by Appellant, were filed to challenge the United States Constitutional authority and/or Constitutional Legislative and Subject Matter Jurisdiction of the **UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN"** over Appellant, a Sovereign Citizen Michigan Republic. To this date, there has been no Answer from, or addressing of Appellant's Motions by the Appellee, with the Collusion and Aid of the District Court. The District Court set and held a number of ***"meaningless"*** hearings; while holding said hearings, the District Judge became Prosecutor and Judge, stating that he would answer Appellant's Motions, and the Appellee did not have to respond. The Appellee in this instant case filed a **"totally preposterous"** Motion, stating Appellant's Motions were **"incomprehensible"** and Appellant should be tested for **"Mental Competency"** for filing such Motions. If the Appellant might digress here, Appellant has to think, King George must have felt the very same way when the founding framers filed the **"Declaration of Independence,"** the nerve of them, they must be **"crazy;"** who do they think they are? The District Court ruling was pre-Final Judgment, and could not be appealed.

Appellant has been illegally and unconstitutionally tried and convicted in the District Court. The District Court even unconstitutionally sentenced Appellant. Appellant is a Sovereign Citizen of Michigan Republic; Appellant is the Secured Party, a creditor, not a debtor in this Commercial Case, as evidenced by the filing of his UCCI Financing Statement. Appellant has exercised his God Given Right and Expatriated the CORPORATE FEDERAL UNITED STATES, UNITED STATES OF AMERICA and Repatriated into the Republic United

States. Appellant has given Verified Actual and Constructive Notice to the District Court and the Appellee of all of the facts; see Joint Appendix. The District Court has ruled without any *law*, and kept stating to Appellant **"There is no question whatsoever in the Court's mind, that this is an Article III Court."** Appellant, as a Sovereign Citizen, is entitled by right to an Article III Court, and to be confronted by a Corpus Delicti. The District Court is not an Article III Court, and the Appellee has suffered *no* injury. Appellant has cancelled all of his Corporate Adhesion Contracts, hence No Jurisdiction in This Private Matter.

Statement of Issue For Review

1. Whether the UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN was without Jurisdiction over Appellant, a Sovereign Citizen Michigan Republic, as the Constitution of the United States, does not give the Congress of the United States the authority to establish Admiralty, Maritime and/or Administrative Jurisdiction, enlarging the power and character of the Non-Article III, Legislative Tribunal **"UNITED STATES DISTRICT COURT,"** reducing Sovereign Citizens of the Republic States to Merchant Corporate Fictions and enemies of the United States, illegally and unconstitutionally creating subject matter **"fictional"** Jurisdiction.

2. Whether the Congress of the United States has the Constitutional authority to establish the Federal Criminal Code and Federal Rules of Criminal Procedure in the Republic States, creating a totally unconstitutional Legislative Democracy, establishing Jurisdiction over areas of the Republic states and Sovereign Citizens of the Republic States, without said areas having been

ceded to the United States by the Republic States Legislatures.

3. Whether the Congress of the United States can use the Non Article III Legislative Tribunal **"UNITED STATES DISTRICT COURT"** to compel the observance of its unconstitutional Jurisdiction by Appellant, a Sovereign Citizen, Michigan Republic, as Appellant is the **"Holder in Due Course"** of His Corporate Legal Fiction, All CAPITAL LETTERED NAME (LUTHER MCCASKILL) and Appellant has Expatriated The Corporate UNITED STATES, and Repatriated into the Republic United States, while cancelling all of Appellant's Adhesion Commercial Contracts, as is Appellant's God Given Right.

4. Whether Appellant, as a Sovereign Citizen Michigan Republic was entitled as a matter of right, to present his Defense, and call witnesses of his choice, and not present the Defense that the Government and the District Court compelled Appellant to present, thereby preventing Appellant's Jury from having all the pertinent facts, before deciding the case objectively and intelligently.

5. Whether Appellant, a Sovereign Citizen Michigan Republic was entitled, as a Matter of Right, to have a Jury selected from a venire that was representative of a fair cross-section of Appellant's community, and Not a Jury venire that is totally underrepresentative of African-Americans, as a **"distinctive"** group in Appellant's community, due to historical systematic exclusion of African-Americans in the Jury selection process, in relation to the number of African-Americans in Appellant's community.

ARGUMENTS

1) Whether the UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN, was without Jurisdiction over Appellant, a Sovereign Citizen Michigan Republic, as the Constitution of the United States does not give the Congress of the United States the authority to establish Admiralty, Maritime and/or Administrative Jurisdiction, enlarging the Power and Character of the Non-Article III, Legislative Tribunal "UNITED STATES DISTRICT COURT," reducing Sovereign citizens of the Republic States to Merchant Corporate Fictions and enemies of the United States, illegally unconstitutionally Creating Subject Matter "Fictional Jurisdiction."

First, we must analyze the problem in Maritime, Admiralty and/or Administrative Jurisdiction; to do this it is necessary to go back in time. We are not in Common Law under the Constitution. In fact, we are not in equity under the Constitution; we are in Maritime Law (the Law of International Commerce), Admiralty Law (all controversies arising out of acts done upon or relating to the sea, and questions of *prize*. *Prize* is that law dealing with war and the spoils of war – such as capture of ships, goods, materials, property – both real and personal, etc.). Back in time – just before the Revolution, when the colonies were festering and threatening revolt from the king, when we had the Common Law of the colonies. The king's men came over to collect their taxes. They didn't use the Common Law; they applied Admiralty Law; arrested people; held Star Chamber proceedings and denied the colonists their Common Rights. The principles of Common Law found in the Constitution are no accident, but the product of well-reasoned debate and thought, as the framers knew, that if we were ever placed or brought under Maritime Admiralty Law concerning our persons and property, we would have dire need of a guarantee for our rights, thus, the Ten Amendments (Bill of Rights) were added to the Constitution. Article III, Section 2, of the Constitution defines the Maritime Admiralty Jurisdiction, *which has no Statutory Jurisdiction*.

Now, to understand the Constitution, we must examine the Declaration of Independence and the fifty-six (56) men who signed it, and pledged their lives, liberty, family, property and their honor to this very sacred trust. All of the men who signed the Declaration, were very knowledgeable and learned in the Common and Admiralty Maritime Law. The men knew the law, because they studied the law; they may not have had a college degree, or even a high school education (many of them), but they could read, and they read and studied law. The men who signed the Declaration of **"Independence,"** were men of the age of reason, and they knew and they understood the difference between the Common Law and Admiralty Maritime Law. These men knew exactly what the king was doing to them – they knew the law, *Appellant knows the Law*!

Knowledge is a very important thing, as James Madison wrote years ago; **"knowledge will forever govern ignorance, a people who mean to be their own governors, must arm themselves with the power which knowledge gives."** Let's explore the Common Law in depth; and, its embodiment in our United States Constitution. One of the best ways of explaining what the Common Law is, is to explain what it is not, to compare the Common Law to its Antithesis.

There are, fundamentally, two competing systems of man-made law in the world that are in constant conflict against each other. One is the Common Law, and the other is the Roman Civil Law. For prime example, the *Magna Carta* (1215) used the antithesis method, as most Articles of the Magna Carta are statements of normal practice in Roman Law, with a **"thou shalt not"** added.

A brief study of the philosophic background has to be presented in order for one to grasp the profound significance of the differences in the two systems. A tri-unity of God (or, supreme being) concept, composed of: 1. God is (the God out there), 2. God within (God dwelling in each individual), and 3. within God (the person being a part of God, a cell in the body of God), etc., the basic building block of religious understanding; the basic elements of man's religions and religious institutions. One can find these concepts ruling ancient civilizations, and extending into the very roots of our Constitutional concepts of statehood. The ancient Greek city states developed in two, and opposing directions, because their philosophic thought gave some the **"God within"** concept, while the others took the **"God is"** as their sole concept. One was Republican, the other was oligarchic. This thread of belief structure comes down to our current era.

Moreover, the Republican **"God within"** society believes in the worth and responsible nature of the individual. Even though it was not accepted by the Eastern (Byzantine) rite and the Jesuits, it truly resulted in the Renaissance – the Age of Reason, great artistic expression, and the great Republican movements in Europe and by the founding patriots in America, of the United States. The words of J. Ruben Clark, a former U.S. Under-Secretary of State and Ambassador to Mexico, probably most succinctly stated the principles and applications of these two systems of law, when he wrote:

> **"Briefly, and stated in general terms, the basic concepts of these two systems was as opposite as the poles. In the Civil Law, the source of all law is the personal ruler, whether, king, or emperor; he is sovereign. In the Common Law, certainly as developed in America, the source of all law is the people. They, as a whole, are sovereign. During the centuries, these two systems have had an almost deadly rivalry for the control of society, the Civil Law and its fundamental concepts being the instrument through which ambitious men of genius and selfishness have set up and maintained despotisms: The Common Law, with its basic principles, being the instrument through which men of equal genius, but with love of mankind burning in their souls, have established and preserved liberty and free institutions. The Constitution of the United States embodies the loftiest concepts yet framed of this exalted concept."**

Thus, our heritage of freedom is a direct and proximate result of the Common Law *Guarantee* in our Constitution, deriving its authority solely from usages and customs of *immemorial antiquity*. The Common Law is the legal embodiment of practical common sense, and its guiding star has always been the rule of right and wrong – the golden rule. The Common Law, as embodied in the United States Constitution, for the protection and security of persons and property, is *Substantive* Common Law; (substantive right, as of life, liberty, property or reputation) held to exist for its own sake and to constitute part of the normal legal order of society. The unquestionable intention of the founding patriots, being the *assurance* of access to this Common Law by the people. How can the Congress of the United States illegally and unconstitutionally thrust the sovereign people into this Foreign Jurisdiction of Admiralty Maritime Law? The basic element of the Substantive Common Law is the individual actual person. In the Common Law Jurisdiction; the people are sovereign, and the captain of their ship, hence ***"we the people."***

Now, we come to the enlarging the power and character of the non-Article III, Legislative; **"UNITED STATES DISTRICT COURT."** As previously stated, many reasons impelled the American colonists to separate themselves from Great Britain; but more than anything, the obvious reasons were given in the Declaration of **"Independence"** itself. Written in the style of a formal complaint, or action at law, it contains a Declaration, a Common Law Bill of particulars, and a prayer to the Supreme Judge of the world. For Appellant purposes, he will zero in on the 13th Count, where it is stated: **"That (King George) he has combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws; giving assent to their acts of pretended legislation."** The Declaration then goes on to define the Foreign Jurisdiction. One of the Foreign Jurisdictions outlined or defined is,

> **"For abolishing the Free System of English Laws in our neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit**

instrument for introducing the same absolute rule into these colonies."

It is unquestionable that the framers of the Constitution of the United States knew just what they were doing when they established the judicial power of the United States under Article III, and in no way, shape, form or fashion, can the Congress of the United States, in violation of the Constitution, enlarge the power or character of the Legislative UNITED STATES DISTRICT COURT, to exercise power over the sovereign citizens of the several states.

The Federal Government is one of delegated and numerated powers, *Martin vs. Hunters Lessee*, 14 US (Wheat . . .) 304 (1816). All other powers have been retained by the States or the People, U.S. Constitution, Amendments Nine & Ten. In the area of criminal law, Federal crimes are solely creatures of statute, *Dowling vs. United States*, 473 US 207, 213 (1985); however, Congress' power to declare an act a crime ultimately must be grounded in some provision of the Constitution, *United States vs. Fox*, 94 US 670 (1878). There are clearly **"Jurisdictional Prerequisites"** for Legislation by Congress, *Coleman vs. Thompson*, 501 US 722, 759 (1909), and Congress lacked the jurisdiction to enact the statutes *as applied* by which the Defendant was charged, as *there was no Territorial Jurisdiction over Defendant's private residence at 13077 Corbett, in the city of Detroit, county of Wayne, state of Michigan*, and **"Ipso Facto,"** Defendant's Constitutional rights were violated and deprived.

The law is well established regarding judicial jurisdiction, as follows:

"There is no presumption in favor of jurisdiction, and the basis for jurisdiction, must be affirmatively shown." *Hanford vs. Davis*, 163 US 273, 16 S.Ct. 1051, 41 LEd 157 (1896).

"It is axiomatic that the prosecution must always prove Territorial Jurisdiction over a crime in order to sustain a conviction therefore." *United States vs. Benson*, 495 f2d 475, 481 (1974); *Lopez*, supra., at 2047 CrL, for further discussion.

> **"The Federal Courts are under an independent obligation to examine their own jurisdiction, and standing 'is perhaps the most important of [the jurisdiction] doctrines.'** ***Allen vs. Wright*****, 648 737, 750, 82 LEd 2d 556 (1984)."**
>
> **"[E]very Federal Appellant Court has a special obligation to 'satisfy itself not of its own Jurisdiction, but also that of the Lower Courts in a cause under review, even though the parties are prepared to concede it . . . ' 'And if the record discloses that the Lower Courts were without jurisdiction, this Court will notice the defect, although the parties make no contention concerning it.'"** ***Bender vs. Williamsport Area School Dist.*****, 475 US 215, 107 LEd 2d. 603, 621-22 (1990).**
>
> **All courts of justice are bound to take judicial notice of Territorial extension of jurisdiction exercised by government whose laws they administer, or of its recognition or denial of sovereignty of foreign power, as appearing from public acts of Legislative and Executive, although**

those acts are not formally put in evidence, nor in accord with pleadings." ***Jones vs. U.S.*****, 137 US 202, 11 S.Ct. 80 (1890),** ***Manchester v. Massachusetts*****, 11 S.Ct 559, 139 U.S. 262.**

Where a Federal Court is without jurisdiction of the offense, judgment of conviction of the Court and/or the jury is *void Ab Initio*, on its face, *Bauman* vs. *U.S.*, CCP Louisiana 1946, 156 f2d 534; and where the subject of jurisdiction in the Court over the person, subject matter, or the place where the crime was committed can be raised in any stage of the criminal proceedings, including execution of sentence, it is never presumed, but must always be proved, and it is never waived by an accused, U.S. vs. Rogers, D.C. Ark, 23 F 658 (1885), *Williams* v. *U.S.*, 77 L.Ed. 1378-83, 289 U.S. 553.

The reason that the jurisdiction of the Federal Courts must be proven when challenged, is that the Constitutional Authority is merely the first hurdle that must be overcome in determining that a Federal Court has jurisdiction over a particular controversy, because the jurisdiction of the Federal Court is limited not only by the Constitution, but also by acts of Congress, *Owen Equip. and Erection* vs. *Kroger*, 437 US 365, 57 L.Ed 2d 274 (1978).

2) Whether the Congress of the United States has the Constitutional Authority to Establish the Federal Criminal Code and Federal Rules of Criminal Procedure in the Republic States, creating a totally unconstitutional Legislative Democracy establishing Jurisdiction over areas of the Republic States and Sovereign Citizens of the Republic States, without said areas having been ceded to the United States by the Republic States' Legislatures.

The jurisdiction of the Federal Courts, *Article III* for Judicial Power Courts, and *Article IV* for which have been referred to as **"Constitutional Courts,"** and regarded as **"Legislative Courts,"** *O'Donoghue vs. U.S.*, 289 US 516, 77 LEd 1356; *Mookini vs. U.S.*, 303 US 201, 82 LEd 748. It was held that, while Congress may establish **"Legislative Courts,"** whose judges do not enjoy guarantees of *Article III*, **"inherently judicial"** tasks must be performed by judges deriving power under Article III; U.S. vs. Sanders, 641 f2d 659, 663-64, Cert. den., 452 US 918, 69 LEd 422, (9th Cir. 1981); Palmore vs. U.S., 411 US 389, 390-410 (1973).

The UNITED STATES DISTRICT COURTS (U.S.D.C.) creation and composition was, by act of Congress on June 25, 1948 [62 Stat. 895] and November 13, 1963 [77 Stat. 331], currently codified at Title 28 USC § 132, which lists civil, admiralty, maritime, patent, bankruptcy, etc . . . but not CRIMINAL! The acts of Congress which established the UNITED STATES DISTRICT COURTS do not vest these courts with any criminal jurisdiction, and it is well established that the UNITED STATES DISTRICT COURTS have only jurisdiction as is conferred by an Act of Congress under the Constitution, *Hubbard vs. Ammerman*, 465 f2d 1169 (1972), Cert. den., 410 US 910, at 1176. The UNITED STATES DISTRICT COURTS are not courts of General Jurisdiction, and have no jurisdiction, except as prescribed by Congress pursuant to Article IV; Graves vs. Snead, 541 f2d 159 (1976), Cert. den. 429 US 1093, at 161.

The Act of June 25, 1948 consolidated Title 28 USC § 1, (1940 Edition) with Title 48 USC §641, (1940 Edition), which deals with District Courts of the Territories and insular possession of the United States. It is apparent that the UNITED STATES COURT for the EASTERN DISTRICT of Michigan has been established under the provisions of Title 28 USC § 117, and its jurisdiction is defined and limited at *Title 28 USC § 132, § 1331.*

The court of appropriate jurisdiction for violations of the provisions of *Title 18 USC* is designated at *§ 3131*, states: ***"The District Courts of the United States shall have original jurisdiction exclusive of the courts of the states."*** **[Emphasis added]**

Of all offenses against the laws of the United States; see also *Glidden vs. Zdanok*, 370 US 530, 8 LEd 2d 671 (1962), at 683-88. Obviously, there is a distinct and definite difference between a **"UNITED STATES DISTRICT COURT,"** and a **"District Court of the United States of America,"** and the fact is well established by numerous decisions, including *International Longshoremen's and Warehousemen's Union vs. Juneau Spruce Co.* 342 US 237, 96 LEd 275, which stated:

> **"The words, 'District Court of the United States of America' commonly described Constitutional Courts created under this *Article III*, and not the Legislative Courts of the territories."**

The law is well established regarding these two different judicial jurisdictions, and the United States Supreme Court has left no doubt whatsoever that the Defendants have the right to expect the prosecutors and others to know when their conduct violates statutory law, Constitution rights, and the various jurisdictional prerequisites . . . especially jurisdiction:

> **" . . . though the judicial system, as set up in a territory of the United States, is a**

> **part of the Federal jurisdiction, the phrase *'Court of the United States,'* when used in a Federal statute, is generally construed as not referring to Territorial Courts."** *International Longshoremen's and Warehousemen's Union vs. Wurtz*, 170 f2d 183, *Cert. den.*, 336 US 919, 93 LEd 1082, *Rehring. den.*, 336 US 971 LEd 1121.

"Territorial Courts are as Legislative Courts, distinguished from Constitutional Courts," *American Insurance Co. vs. 356 Bales of Cotton*, 1 Peter 511, 7 LEd 242 (1828).

> **" . . . The UNITED STATES DISTRICT COURT is not a true United States Court established under *Article III* to administer the raw judicial power of the United States therein conveyed; it is created by virtue of the sovereign congressional faculty, granted under *Article IV, § 3*, of that instrument, of making needful rules and regulations respective of territorial belonging to the United States."** *Balzac vs. Puerto Rico*, 258 US 298, 66 LEd 627 (1922), *Pettibone* v. *U.S.*, 148 U.S. 197, 13 S.Ct. 542, 37 L.Ed. 419.

One of the other Foreign Jurisdictions, referred to in the Declaration of **"Independence"** by the founding patriots was, **"For suspending our own Legislatures, and declaring themselves invested with power to legislate for us, in all cases whatsoever."** The Declaration goes on to state that, (the United Colonies)

> **" . . . as FREE and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and**

> **do all other acts and things which Independent States may of right do."**

The Declaration also *clearly* expressed the intent to ban the Admiralty Jurisdiction from within state borders, or from the domestic law of the states, the main purpose and reason for the separation. Our question, then, narrows itself down to this, **"How can the Congress of the United States do what is so very clearly forbidden by the Constitution of the United States?"** See *Murray* v. *Hoboken Land Co.* 18 How. 272, 15 L.Ed.2 372-373.

The effect of the Declaration of Independence was to make each new state a separate and independent sovereignty over which there was no other government of superior power of jurisdiction. This was clearly shown in *M'Ilvane v. Lessee*, 8 U.S. (4 Cronch) 209 (1808), where it was held.

> **This opinion is predicated upon a principle which is believed to be undeniable, that the several states which composed this Union, so far, at least as regards their municipal regulation, became entitled, from the time they declared themselves independent, to all the rights and powers of sovereign states, and that they did not derive them from concessions made by the British king. The treaty of peace contains a recognition of their independence, not a grant of it. From hence it results, that the laws of the several state governments were the laws of sovereign states, and as such, were obligatory upon the people of such state, from the time they were enacted.**

And a further expression of similar import is found in *Harcourt v. Gaillard*, 25 U.S. (12 Wheat) 523 (1827), where the court stated:

> **There was no other territory within the United States that was claimed in any other right than some one of the confederated states; therefore, there could be no acquisition of territory by the United States distinct from, or independent of, some one of the states.**
>
> **Each declared itself sovereign and independent, according to the limits of its territory.**
>
> **The soil and sovereignty within their acknowledged limits were as much theirs at the Declaration of Independence as at this hour. Id. at 526, 527.**

Thus, unequivocally, in July 1776, the new states possessed all sovereignty, power and jurisdiction over all the soils and people in their respective territorial limits.

This condition of supreme sovereignty of each state over all property and persons within the borders of that state continued, notwithstanding the adoption of the Articles of Confederation. In Article II of such Articles, it was expressly stated:

> **Each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.**

In numerous instances, Defendant has seen where the courts have held that to clarify the intent of a statute, or to know how to construe a statute, it is necessary to understand the intent of the Legislature. Since the Constitution was intended to be the **"supreme law of the land"** (again a territorial expression of jurisdiction), how much more important is it to understand what the framers of the Constitution intended for that Constitution to be and do? For knowledge of that intent, one must, at this late date, look to what the framers of the Constitution had to say about that intent, since one cannot now ask those framers of the Constitution, what their intent was. For this purpose, one must look to such statements as were made by James Madison, in *The Federalist* while the Constitution was in the formative stage, which statement was contained on pages 292-93:

> **[T]he powers delegated by the *proposed Constitution* (emphasis added) to the Federal Government *are few and defined* (emphasis added). *Those which are to remain in the state government are numerous and indefinite* (emphasis added) (The 10th Amendment was later added to clarify this issue).**

James Madison was not only one of the framers of the Constitution, but was also one of the signers when that Constitution was adopted. Another one of the framers was Thomas Jefferson, who, in response to the **"Alien and Sedition Acts of 1788,"** one year after the Constitution was ratified, in ***"The Kentucky Resolutions,"*** states:

> **The Constitution of the United States, having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high sea (emphasis added), and offenses against**

> **the law of nations and no other crimes whatsoever (emphasis added) * * * .**

It would appear that Thomas Jefferson has fairly stated the intent of the framers of the Constitution. The Constitution was ratified, forming the Union of States (United States of America), On September 17, 1787.

Since the ratification and implementation of the present United States Constitution, the united States Supreme Court and all Lower Courts have had many opportunities to construe and apply the above provisions of the Constitution. And the essence of all those decisions is that the states of this nation have exclusive jurisdiction of property and persons located within their borders, excluding such lands and persons residing thereon, which have been ceded to the United States.

Perhaps one of the earliest decisions on this point was *United States v. Bevens*,16 U.S.(3 Wheat) 336 and (1818), which involved a federal prosecution for a murder committed on board the United States owned warship, ***"Independence,"*** anchored in the harbor of Boston, Massachusetts. The defense complained that only the state had jurisdiction to prosecute, and argued that the Federal Circuit Courts had no jurisdiction of this crime supposedly, committed within the Federal Government's Admiralty Jurisdiction. In argument before the Supreme Court, counsel for the United States admitted as follows:

> **The exclusive jurisdiction which the United States has in forts, and dockyards ceded to them, is derived from express assent of the States by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the**

> **state would be supreme and exclusive therein, *Id.*, at 350-51.**

In holding that the State of Massachusetts had jurisdiction over the crime, the Court held:

> **What then is the extent of the jurisdiction which a State possesses?**
>
> **We answer without hesitation, the jurisdiction of a State is co-extensive with its legislative power, *Id.* at 386-87.**
>
> ***The Article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction * * * Congress has power to exercise exclusive jurisdiction over this district, and over all places purchased by consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings.***

Bevans went on to say:

> **To bring the offense within the jurisdiction of the courts of the Union, *it must have been committed out of the jurisdiction of any State*; *it is not the offense committed, but the lace in which it is committed, which must be out of the jurisdiction of the State.*** (emphasis added)
>
> ***It was not the offense committed, but the bay in which it was committed, which had to be out of the jurisdiction of the State.*** (emphasis added)
>
> **It is observable that the power of exclusive legislation is united with cession of**

> **territory, which is to be the free act of the states. It is difficult to compare the two sections together, without feeling a conviction, not to be strengthened by any commentary on them, in describing the judicial power, the framers of our Constitution had not in view any cession of territory; or, which is essentially the same, of general jurisdiction, *Id.*, at 388.**

3) Whether the Congress of the United States can use on-Article III Legislative Tribunal "UNITED STATES DISTRICT COURT," to compel the observance of its unconstitutional Jurisdiction by Appellant, a Sovereign Citizen Michigan Republic, as Appellant is the "Holder in Due Course" of his CORPORATE Legal Fiction, ALL CAPITAL LETTERED NAME (LUTHER MCCASKILL), and Appellant has Expatriated the Corporate UNITED STATES, and Repatriated into the Republic United States, while cancelling all of Appellant's Adhesion Commercial Contracts, as is Appellant's God Given Right.

In Criminal prosecutions, where the Federal Government is the moving party, the Government must have Legislative Jurisdiction, or the Federal Government is simply an ordinary proprietor, subject to the Legislative Authority and Control of the State, equally with the property of private individuals. The United States Government has No Constitutional Authority to compel Appellant to observe its unconstitutional Laws, and where a Court is without Subject Matter Jurisdiction, that Court's Judgment is void Ab Initho. Appellant has exercised his *Natural God Given Right*, to give up his UNITED

STATES FEDERAL CORPORATE citizenship; Appellant was Not born in Washington, D.C. or Federal Government's Territories, so the DISTRICT COURT'S Judgment is totally void. This Judgment can be attacked at any time, in any Court, either directly or collaterally, provided the party is properly before the Court. See: *Long* v. *Shorebank Development Corp.*, 182 F.3d 548 (CA7, 1999) Appellant is properly before this Appeals Court, and it is incumbent upon this Appeals Court to Reverse Appellant's Case.

These structures protect liberty, and as checks and balances, were the foundation of government that would protect liberty. Bowsher v. Synar, 478 U.S. 714, 722 (1986).

By dividing powers among the states and Federal Government, the framers of the Constitution, intended to provide, **"double security to the rights of the people."** *THE FEDERALIST NO. 51 at 351* (James Madison) (Jacob E. Cooke, Ed., 1961). The Federal Government does *not* have a general police power, under our Constitutional system, **"the States possess primary authority for defining and enforcing criminal law."** *Brecht v. Abrahamson,* 507 U.S. 123, L. Ed. 2d 353, 113 S. Ct. 1710 (1993) quoting *Engle v. Isaac*, 456 U.S. 107, 128, 71 L. Ed. 2d 783, 102 S. Ct. 1031, 162 ALR 1330 (1945) (Plurality Opinion).

"Our national Government is one of delegated powers alone." Appellant *avers* at this juncture, that clearly the Constitution of the United States has not changed, which means the **"law"** is not changing, or has not changed, but rather the **"law"** has been subverted and used for what appears to be the purpose of **"policy"** in open and **"blatant"** violation of the United States Constitution, State Constitutions, Oaths of Office, Codes of

Ethics, and Appellant's *Inalienable* Rights. According to the *Declaration of Independence*, officials who do so, **"whose character is thus marked by every act which may define a tyrant, are unfit to be the servant of a Free People."** In Fact, and in Reality, such action is *Treason* against the Constitution of the United States.

Now, we come to the all capital lettered name **"LUTHER MCCASKILL"** a Corporate Legal Fiction Juristic Person, that Appellant is The Surety For This Creation has to take place, because Admiralty Maritime Roman Civil Law Jurisdiction of the **"UNITED STATES DISTRICT COURT,"** A Commercial, Legislative, Non-Article III, Non-Common Law Court, cannot deal with the real Natural Living Human being, Luther James McCaskill. Congress of the United States, through its Corporations, THE UNITED STATES, THE UNITED STATES OF AMERICA, etc., has illegally and unconstitutionally, agreed and contracted, in international, Commercial Admiralty Maritime Law, in the Said *FEDERAL RESERVE BANK ACT* (1913 to 1933) and the *AMENDATORY TRADING WITH THE ENEMY ACT* (1933), giving total Control of the United States to international Bankers, which is a paramount and totally **"permanent Lien"** on the Citizens of The Several (50) States and Their assets. The UNITED STATES is Defined as a Federal Corporation on the authority of Title 28 USC 3002 (15). Said UNITED STATES is bankrupt on the authority of *Perry* v. *United States*, 294 US 330-381, 79 Led 912, by necessity, for protection of all of Appellant's substantive, unalienable, imprescriptible Rights pursuant to the Uniform Commercial Code (UCC) at 1-207 **("with explicit reservation of all Rights" or "without prejudice")** in conjunction with a Signature. The Appellant has taken Control of his Straw Man all Capital Lettered Name (LUTHER MCCASKILL) and has reserved his Common Law Right **"Not to be bound to the Statue"** or Commercial Obligation, of any Commercial agreement that he did Not enter into, **"knowingly, voluntarily and intentionally"** as would be the case in any Common Law Contract. See UCC I Financing Statement, Verified Actual UCC§3-306(b) **"Holder in due course,"** and acceptance for value, and Constructive Notice of Same, and Affidavit of Commercial Notice, pursuant to UCC 1-107, UCC 103, UCC 1-104. The change from **"Public Law"** to **"Private Commercial Law"** was Recognized by the Supreme Court of The United States in *Erie Railroad* v. *Tompkins*, 304 U.S. 64, 58 S.Ct. 817, 82 L.Ed 1188. To enforce these **"colorable"** Contracts a New **"Colorable Jurisdiction"** called **"Statutory Jurisdiction"** was created. This statutory (colorable-Fiction) Jurisdiction is Legislative and Administrative, rather than *Judicial* in nature, and enforces Commercial Agreements based on **"implied Consent"** for the corporate UNITED STATES, rather than Contracts under the Common Law. Few people realize that our National Congress is operating the Corporate UNITED STATES, UNITED STATES OF AMERICA as a Legislative Democracy which originated under Article I, §8, Clause 17 of the Constitution of the United States, which Appellant will call the FEDERAL UNITED STATES (without any Constitutional Limitations upon its authority), and its Corporate Federal citizens of the UNITED STATES, which is at direct odds with the Vitality of the United States Constitution.

Further, Appellant, has Expatriated the Corporate UNITED STATES, as a Flesh and Blood Man, Appellant is endowed by his Creator (or Nature's Law) with Certain

Rights that can Never be taken away; Appellant is a Supreme Sovereign. See *Chisholm v. Georgia 2 Dall 419, 471 Yick Yo v.* Hopkins, 118 US 356, 370. Under the Constitution of the United States that was written, a certain pecking order was dictated. At the top of the pecking order is God, or Natural Law; next comes Man, who is above the Constitution, Not a party to it. See *Pedelford* v. *City of Savannah* 14 GA 438 (1854). Government employees, who are under oath, and Corporations (LUTHER MCCASKILL) that are asking for a benefit or privilege from the people, are under the Constitution, and a party to it. Appellant Expatriated the Corporate UNITED STATES, UNITED STATES OF AMERICA, pursuant to the provisions of a Law passed by the *40th Congress of the United States, Session II Chapter 249, 250, July 27, 1868,* which states in pertinent part:

> **"Whereas the *Right of Expatriation is a Natural and inherent Right of all People,* indispensable to the enjoyment of the Rights of Life, Liberty and the Pursuit of Happiness . . . Therefore, be it enacted by the Senate and Representatives of the United States of America in Congress assembled, *that any declaration, instruction, opinion, order or decision of any officers of This Government which denies, restricts, impairs, or questions the Right of Expatriation,* is hereby declared inconsistent with the Fundamental Principles of this government."**

The Constitution of the United States of 1787 provided no grant of authority from the people, Nor the States, for Congress of the United States to create a corporate UNITED STATES, UNITED STATES OF AMERICA to operate in the Several (50) States. There are No *Inherent Powers*, involved with Congress under the United States Constitution to carry out its enumerated powers or those delegated to authorize, the Creations of Corporations. All Corporations are represented by the **"BAR"** (British Accreditation Registry), as Legal entities (Fictions of Law) charted by the British Crown and Not the Constitution of the United States. Appellant has Repatriated into the Republic United States pursuant to Article 4, Section 4, Clause I of the Constitution of the United States, as Appellant was born in a Republic State.

4) Whether Appellant, as a Sovereign Citizen Michigan Republic was entitled, as a Matter of Right, to present His Defense and Call Witnesses Of His Choice, and Not present the Defense that The Government and The District Court Compelled Appellant to Present, thereby preventing Appellant's Jury from having all the Pertinent Facts, before deciding the case objectively and intelligently.

The Right of an accused to defend himself, as conceived by the Framers of the Constitution of The United States rests on the basis that the accused must be able to present his best defense. Implicit in the Fifth and Sixth Amendments is the Right of an accused to Manage and Conduct his own defense, in a Criminal Case. Essential Fairness is lacking, if an accused cannot put **"his"** case effectively in Court. See *Adams* v *U.S. Ex Rel McCann*, 317 U.S. 269, 279, 63 S.Ct. 236, 87 Led 268 (1942) for more than seven hundred years, that is since the Magna Carta, in 1215, there has been no clearer principle of English or American Constitutional Law, than in Criminal Cases, it is Not Only the *Right* and *duty* of Juries to Judge what are the facts, what is the Law, and it is also their *Right* and primary and paramount *duty*, to Judge the Justice of the Law. Unless such be the Right and duty of Jurors, it is unequivocally plain, that instead of Justice being a **"palladium"** of Liberty; a barrier against tyranny and oppression of the Government, they are (Jurors) really and truly, mere tools in its hands for carrying into execution any injustice and oppression it may desire to have executed. In this instant Case, This Appellant was Arbitrarily and Capriciously denied the Right to present **"his"** Defense to the Jury in his Case. The District Court in this instant Case refused Appellant's Written Request to access the District Court's Compulsory Process. See Appellant's MOTION TO ACCESS THE COURT'S Compulsory Process. The District Court and the Government clearly worked together to deny Appellant his Human and Constitutional Rights in this instant Case. Appellant, having cancelled all of his Commercial Agreements and Franchises, Expatriated the Commercial Corporate UNITED STATES, UNITED STATES OF AMERICA and Repatriated into The Republic United States pursuant to the UCC, thereby regaining his Sovereignty, and a God Given Right Not to be unconstitutionally tried in the Maritime, Equity, Chancery, Corporate Jurisdiction of the UNITED STATES DISTRICT COURT.

Appellant is Not a Resident Alien, citizen, nor Domicile of a Fiction (Corporation), a Fiction that only exists in contemplation of Law. See *U.S.* v. *Wong Kim Ark*, 169 U.S. 649, 4 L.Ed. 890, 18 S.Ct. 456, 483 (1898) *Rabong* v. *Ins.* 35 F. 3d 1448, 49 (CA-9, 1994). Appellant rebuts the presumption that he consents to any exercise of a Corporate Non-Constitutional Jurisdiction Not established and ordained by the people, operating in a Military Character under the **"War Powers"** With The Enemy Act Title 50 USC App. Sections 1-6-7-39, 41 and 44. See: *R. M. Brady* v. *U.S.*, 397 US 742; also *Curley* v. *U.S.* 130 F1, 864. Appellant requested the District Court to advise him that his name Was Dred Scott, and he would set and shut up and stop demanding his Human Rights. See Transcript pp's 9 through 12, and *Dred Scott* v. Sanford, 60 U.S. (19 How) 393. If Appellant has no Human Rights, please advise him, and Appellant will accept his Judicial Lynching with at least the reality of it all. Appellant was born a Living Flesh and Blood Free Human Being, and Shall Not **"lie supinely on my back hugging the delusive phantom of hope, until this unconstitutional Government has bond Appellant hand and foot."** It is Appellant's God Given Right to manage his own Defense, and make the best of his Case; and do it with God's blessing and with his heart and **"Mind strengthened with the unquenchable Love of Liberty."** The District Court in this instant Case totally disregarded Appellant's Motions for a Common Law Jury, which is a Jury guaranteed him, as a Sovereign Citizen in Fact and in Reality. The District Court totally disregarded all of Appellant's Motions; allowed the Government Not to respond, which totally eviscerated the ineluctable proposition and Right to Due Process of Law. See *Lytle* v. *Arkansas*, 9 Howe 314, 13 L.Ed.153. *Duluth & Iron Range Co.* v. *Roy*,173 US 587, 19 S.Ct 549, 43 L.Ed. 820. Appellant had a Right to present Certain Facts to the Jury, for their consideration, and was denied that Right. In a Criminal Trial under the Constitution of the United States,

> **"The Law itself is on Trial, quite as much as the Cause which is to be decided. The Jury has a Right to Judge both the Law as well as the Fact in controversy; the Jury**

has a Right to determine both the Law and the Facts."

The profound sagacious words of three U.S. Supreme Court Justices; John Jay 1st Chief Justice, 1789, Samuel Chase, Signer of the Unanimous Declaration, 1796, and Oliver Wendell Holmes, 1902. Appellant in this instant Case has relied upon only decisions of The United States Supreme Court, which is a perfect defense for Willfulness. See *U.S.* v. *Bishop*, 412 US 346, *Norton* v. *Shelby County*, 118 US 425, *State* v. Burr, 309 U.S. 242. It is an unquestioned Fact of Law, that once Due Process is denied, all Jurisdiction ceases. See *Owens* v. *City of Independence*, 100 S.Ct 1398, *Maine* v. *Thivoutot*, 100 S.Ct 2502, *Hafer* v. *Melo*, 502 US 21.

5) Whether Appellant, a Sovereign Citizen Michigan Republic was entitled, as a Matter of Right, to have a Jury selected from a venire that was representative of a fair cross-section of Appellant's community, and Not a Jury venire that is totally underrepresentative of African-Americans, a "distinctive" group in Appellant's community, due to historical systematic exclusion of African-Americans in the Jury selection process, in relation to the number of African-Americans in Appellant's community.

Appellant thinks that it is unquestioned that as an accused in a Criminal Trial, Appellant's Right to a Jury representing a fair cross-section of His community is guaranteed by the fifth and sixth Amendments to the Constitution of The United States. Appellant is an African-American, and there were no Africans on his Jury.

Appellant's community is very **"distinctive"** with African-Americans, in Fact, African-Americans is the Majority Group in Appellant's own community, encompassing well over 50%. In examining the Jury pool of The UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, Appellant found that the representation of African-Americans was less than twenty (20%) percent. How could Appellant's Jury have been a Fair Jury, when it was impossible to get a Jury representing a fair cross-section of Appellant's community, when those individuals are Not even in the Jury venire. See *Powers* v. *Ohio*. 499 U.S. 400, 410, 111 S.Ct 1364, 1370, 113 L.Ed.2d 411 (1991), *Allen* v. *Hardy*, 478 U.S. 255, 259, 106 S.Ct 2878, 2880-81, 92 L.Ed. 2d 199 (1986). *Smith* v. *Texas*, 311 U.S. 128, 61 S.Ct 164, 85 L.Ed. 84 (1940). The Supreme Court of The United States has held that a Jury must be truly representative of the community. Appellant's Jury was *Not*! The Fact that Appellant's Jury was unconstitutional, is No accident; The EASTERN DISTRICT OF MICHIGAN'S UNITED STATES DISTRICT COURT'S unconstitutional venue, makes it systematically *impossible* to have a Jury venire that is representative of Appellant's community, as most of the Jurors are selected from communities foreign to Appellant's community.

Conclusion

The UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN is totally without **"Judicial Jurisdiction"** of Article III of the Constitution of The United States, and can only look to the **"Statutes"** which created it for **"Jurisdiction"** which Jurisdiction is Not **"Judicial,"** in any form under Article III. Article III, Section I of The United States Constitution serves as an inseparable element of the Constitutional System of checks and balances, and safeguards the role of the Judicial Branch in the Tripartite System by barring Congressional attempts to transfer Jurisdiction to Non-Article III Tribunals. Parties by consent Cannot Confer on Federal Courts' Subject Matter Jurisdiction beyond the limitations imposed by Article III, Section II. See *Commodity Futures Trading Comm.* v. *Schor*, 478 U.S. 833, 106 S.Ct 3245, 92 L. Ed. 875.

George Mason, a Virginia delegate to the Constitutional Convention, refused to sign the newly drafted Constitution, because it did not include the twelve (12) Amendments he authored. In 1789 Congress eventually submitted Mason's Amendments to the States, which ratified ten (10) of those Amendments in 1791. Those Amendments became known as the Bill of Rights. Appellant thinks it is most important to note, that those delegates who opposed Mason's Bill of Rights Amendments, did so not because they objected to protecting the Rights of individuals against the power of the Federal Government; quite the contrary, the delegates opposed the Amendments, because the delegates believed that by listing the Rights, some future generation might believe, or wrongly construe the **"Bill of Rights"** as the only God-Given Rights belonging to the people. That is the main reason for Amendments Nine (9) and Ten (10) of The United States Constitution. In their profound brilliance, the Framers devised a Constitution that granted *Limited* and enumerated power to the Federal Government. The Ninth Amendment recognizes that the people retain God-Given Rights apart from those mentioned in the Constitution. The Tenth Amendment recognizes that the States and the people retain authority Not specifically delegated by the Constitution to the Federal Government. The Framers were acutely aware that both liberty and the rule of Law would not endure long, if the Federal Government (as it is today) was ruled by an aristocracy. The Constitution of The United States created a Republic. The Framers figured out a way for the people of the United States to **"secure the blessing of Liberty that will endure for all times."** The Constitution of The United States was written to be, and is an enduring document; what it forbade in 1789, it forbids in 2002, when it comes to the Bill of Rights. The Federal Courts, according to Alexander Hamilton, were to be, **"The Bulwarks of a Limited Power Constitution."** Unfortunately, too many Federal Judges, wittingly or unwittingly, simply reject the very purpose of the Founding Framers. To Appellant it seems that those Federal Judges believe that individual Liberty and Freedom are granted by the Federal Government, Not by God and the Natural Yearning of the Human Spirit.

Finally, Appellant has given Notice that he is a Sovereign American Citizen. Any and all of his Adhesion Contracts, Corporate Contracts, Corporate Franchises, promises, hypothecations and similar transactions with the Corporate UNITED STATES, UNITED STATES OF AMERICA, are cancelled and voided for Non-disclosure and fraud, pursuant to UCC 1-103-1-104-1-107, 10-104. Appellant has removed his **"Res"** from the Corporate Venue. Appellant is the Secured Party, the True Creditor on this Commercial Account and Case. Appellant is Not a Debtor, but the **"Holder in Due Course"** with the Superior Title and Claim to **"LUTHER MCCASKILL"** as evidenced by Appellant's UCC I Financing Statement. Appellant has Not, and Never Shall waive his inalienable Rights, Not to be Compelled into Contract which is involuntary servitude (slavery). Appellant is a private unenfranchised individual, who owes Nothing to the Federal Government. The UCC has been adopted by the Federal Government operating as a Corporation in Commerce. The UCC is the Law of the World in Commerce, and The United States Supreme Court in *State* v *Burr*, 309 U.S. 242, held that when governments enter the World of Commerce, they are subject to the same burdens as any Private Firm or Corporation.

Appellant has been and is being incarcerated totally illegally, and unconstitutionally. This Appeals Court must look at the Law and Facts herein, it seems, and discharge its duties as a Superior Court, and reverse Appellant's Case. As the DISTRICT COURT'S Order and Judgement in this instant Case **"is a dead limb on the Judicial Tree."** The Commercial, Legislative Tribunal, UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN had or has No Lawful Constitutional authority to order anything upon, or compel this Appellant, a Sovereign Citizen of the Republic. Appellant wishes this Appeals Court to remember, **"Right"** can be on the gallows, being hanged, while **"Wrong"** is a King on a Throne. See: *Milliken* v. *Meyer*, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed.2d. 278 (1940).

Respectfully submitted,
/s/ Luther James McCaskill
Luther James McCaskill,
Pro Per Secured Party,
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Man #20529-039
c/o P. O. Box 1000 – FCI
Milan, MI 48160

IN THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA **Plaintiff-Appellee**	**CASE NO. 01-2708**

v.

LUTHER MCCASKILL
A Fiction, Corporation
Defendant-Appellant
Luther James McCaskill
Third Party Intervener
Accused-Appellant

On Appeal From The UNITED STATES DISTRICT COURT For the EASTERN DISTRICT OF MICHIGAN AT DETROIT
District Court No. 00-80239

Certificate of Service

I, Luther James McCaskill, hereby, herein certify that I served *two* copies of my **Appeal Brief** to the Sixth Circuit Court of Appeals, upon the Appellee, by placing same in the U. S. Mail, postage pre-paid and addressed to:

Stephen T. Robinson
Asst. United States Attorney
211 West Fort Street
Suite 2001
Detroit, MI 48226

Dated: 4/08/02

/s/ Luther James McCaskill
Luther James McCaskill,
Pro Per
c/o P. O. Box 1000 – FCI
Milan, MI 48160

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On Appeal from the UNITED STATES
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OF MICHIGAN AT DETROIT
District Court No. 00-80239

Reply Brief of Appellant Luther James McCaskill

Luther James McCaskill, Pro-Per
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Milan, Michigan 48160

REPLY ARGUMENTS

It is indeed hard, if not impossible for Appellant to Reply to the Brief of Appellee, as just in the past, the issues for review, presented by this Appellant, was unanswered and unaddressed. Appellant can only surmise that Appellee has, it seems, a very hard time dealing with Constitutional Law, and the profound mandates of the United States Supreme Court. Appellee has the, it appears, arrogant, audacious, and contemptable attitude, that, notwithstanding the Constitution, Appellee has carte blanche to operate, without those ridiculous restraints. Appellant unequivocally states here and now that in this country of ours the mandates of the United States Constitution and the United States Supreme Court are ineluctable mandates, that are not to, and cannot, be eviscerated by the pomposity of the Appellee. It is for that reason this Appellant will not render his issues totally inefficacious, by replying to issues in Appellee's brief, that Appellant did not present. In this reply Appellant will reiterate his original issues with further arguments as follows:

1) **The UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN, was without jurisdiction over Appellant, a sovereign citizen Michigan Republic, as the Constitution of the United States does not give the Congress of the United States the authority to establish admiralty, maritime, and/or administrative jurisdiction, enlarging the power and character of the non-Article III Legislative Tribunal UNITED STATES DISTRICT COURT, reducing sovereign citizens of the Republic States to merchant corporate fictions and enemies of the United States, illegally and unconstitutionally creating subject matter "fictional jurisdiction."**

The statutes most federal defendants are charged with violating would, "as applied," clearly exceed the scope of Congress' enumerated power, thereby upsetting the delicate federal balance embodied in the *Ninth, Tenth,* and *Fourteenth Amendments* of the *U.S. Constitution* and its *"Commerce Clause," and the various "State" Constitution* *as well*! The Federal Government is one of delegated and enumerated powers, ***Martin v. Hunter's Lessee***, 14 U.S. (1 Wheat.) 304 (1816). All other powers have been retained by the States, *or the people, U.S. Constitution, Amendments Nine* and *Ten*. In the area of criminal law, federal crimes are solely creatures of statute, ***Dowling v. United States***, 473 U.S. 207, 213 (1985); however, Congress' power to declare an act a crime ultimately must be grounded in some provision of the Constitution, ***United States v. Fox***, 94 U.S. 670 (1878). There are clearly "jurisdictional pre-requisites" for legislation by Congress, ***Coleman v. Thompson***, 501 U.S. 722, 759 (1991), which, when violated, leave the statute "void ab initio," as is well stated in *16 Am Jur 2d § 256*:

> The general rule is that an unconstitutional statute, federal or state, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose, since the unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it, an unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed.

The *only* provision in the Constitution which permits jurisdiction to be vested in the "United States," is found in *Article I, Section 8, Clause 17*, which provides the *only* mechanism for a voluntary cession of jurisdiction from any "State" to the "United States." Remember, when the Constitution was adopted, the "United States" had jurisdiction over *no lands within the "States,"* possessing jurisdiction only in the lands encompassed in the Northwest Territories. Shortly thereafter, Maryland and Virginia ceded jurisdiction to the "United States" for Washington, D.C. Thereafter, as time progressed, the

"States" at various times, ceded jurisdiction to federal enclaves within the "States." Still, at this present day, the territorial jurisdiction of the "United States" is found only in such ceded areas, which encompass Washington, D.C., the federal enclaves within the "States," and such territories and possessions which may be today owned by the "United States."

The prior conclusions are in fact the written opinion of the Federal Government itself. The issues are well discussed, both historically and in depth, with hundreds of cities, in a publication of the U.S. Government Printing Office, titled *JURISDICTION OVER FEDERAL AREAS WITHIN THE STATES*, and sub-titled, "Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States," published in two volumes, *Part I*, and *Part II*, in 1956-1957, which report is the definitive treatise on this subject. In *Part II*, pages 2-6, 41-54, and 105-115 will illustrate that the legislative and territorial jurisdiction of the Federal Government is strictly limited and defined. The Federal Government has no authority to restrict or compel the activities of the individual in those areas which are outside the said legislative and territorial jurisdiction thereof, and the federal courts are limited by and do not exceed the jurisdictions held by the Federal Government. Therein, the Committee well stated:

> The Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction – by State consent under Article I, section 8, clause 17 . . . Justice McLean suggested that the Constitution provided the sole mode for transfer of jurisdiction, and that if this mode is not pursued, no transfer of jurisdiction can take place. *Id.*, at 41.

It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being for exercise by the State, subject to non-interference by the State with Federal functions." *Id.*, at 45.

The Federal Government cannot, by unilateral action on its part; acquire legislative jurisdiction over any area within the exterior boundaries of a State. *Id.*, at 46.

On the other hand, while the Federal Government has power under various provisions of the Constitution to define, and prohibit as criminal, certain acts or ommissions occurring anywhere in the United States, it has no power to punish for various other crimes, jurisdiction over which is retained by the States under our Federal-State system of government.

2) **The Congress of the United States does not have the Constitutional authority to establish the Federal Criminal Code and Federal Rules of Criminal Procedure in the Republic States, creating a totally unconstitutional Legislative Democracy, and establishing jurisdiction over areas of the Republic States and Sovereign Citizens of the Republic States, without said areas having been ceded to the United States by the Republic States' Legislatures.**

The United States District Courts (U.S.D.C.) are not courts of general jurisdiction, and have no jurisdiction except as prescribed by Congress pursuant to *Article III*, as held in ***Graves v. Snead***, 541 F.2d 159, 161 (1976), **cert. den.**, 429 U.S. 1093 (1976).

The jurisdiction of the United States District Court (U.S.D.C.) is codified at *Title 28 U.S.C. § 1331*, which lists civil, admiralty, maritime, patent, bankruptcy, etc., . . . ***but not criminal.***

The Court of appropriate jurisdiction for violations of the provisions of *Title 18 USC* (criminal code), is designated at *Title 18 USC § 3231*, which states:

> The district courts of the United States shall have original jurisdiction *exclusive of the courts of the States*, of all offenses against the laws of the United States. [Emphasis added]

also see, ***Glidden v. Zdanok***, 370 U.S. 530, 8 L.Ed.2d 617, 683-33 (1962).

The Acts of Congress which established the United States District Courts (U.S.D.C.) do not vest these courts with any criminal jurisdiction, and it is well established that the United States District Courts have only such jurisdiction as is conferred by an Act of Congress under the Constitution. ***Hubbard v. Ammerman***, 465 F.2d 1169, 1176, (1972), **cert. den.**, 410 U.S. 910.

Clearly, there is a distinct and definite difference between a "United States District Court" (U.S.D.C.), and a "district court of the United States of America," (or "district court of the United States"). The aforementioned fact is well established by numerous decisions including ***International Longshoremen's and Warehousemen's Union v. Juneau Spruce Co.***, 342 U.S. 237, 96 L.Ed. 275 (1952), wherein the Court stated:

> The words "district court of the United States of America' commonly describe Constitutional Courts created under this *Article III* and not the legislative courts of the territories.

The issue was again addressed in ***International Longshoremen's and Warehousemen's Union v. Wurtz***, 170 F.2d 183, **cert. den.**, 336 U.S. 919, 93 L.Ed. 1082, **rehearing den.**, 336 U.S. 971, 93 L.Ed. 1121, wherein the court stated:

> . . . though the judicial system as set up in a territory of the United States is a part of the Federal jurisdiction, the phrase '*court of the United States*,' when used in a Federal statute, is generally construed as not referring to territorial courts.

This issue is not a new issue, being well settled long ago, as in ***American Insurance Co. v. 356 Bales of Cotton***, Peter 511, 7 L.Ed 242 (1828):

> Territorial courts are legislative courts distinguished from Constitutional courts.

The statutory definition of the term "United States" is identical to the Constitutional definition of the term:

> The term 'United States,' as used in this title in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone. (June 25, 1948, c. 645, 62 Stat. 685). *18 U.S.C. § 5.*
>
> The term 'special maritime and territorial jurisdiction of the United States,' as used in this title, includes: . . . . *and out the jurisdiction of any particular state. 18 U.S.C. § 7.*

Clearly then, these Rules and Statutes (Title 18 U.S.C.) apply to citizens of the "United States," and *not* to Citizens of the sovereign "States," as they convey police power over territory of which the United states has *exclusive legislative jurisdiction.*

> There is no presumption in favor of jurisdiction, and the basis for jurisdiction must be affirmatively shown. ***Hanford v. Davis***, 163 U.S. 273, 16 S.Ct. 1051, 41 L.Ed. 157 (1896).

Lack of jurisdiction cannot be waived, ***Glidden v. Zdanok***, 370 U.S. 530, 535-37 (1962), may be asserted at any time, and will be considered on appeal regardless whether the issue was raised in the trial court, ***United States v. Nukida***, 8 F 3d 665, 668-69 (9th Cir. 1993). "Jurisdictional Claims" are an exception to the rule that a guilty plea waives all claims of Constitutional violations, ***United States v. Caperell*** 938 F.2d 975, 977 (9th Cir. 1991); ***United States v. Robertson***, 698 F.2d 703, 704 n. 1 (5th Cir. 1983).

3) **The Congress of the UNITED STATES cannot use the Non-Article III Legislative Tribunal "UNITED STATES DISTRICT COURT" to compel the observance of its unconstitutional jurisdiction by Appellant, a Sovereign Citizen, Michigan Republic. Appellant is the "holder in due course of his corporate legal fiction all CAPITAL LETTERED NAME (LUTHER MCCASKILL) and Appellant has Expatriated the Corporate UNITED STATES, and Repatriated into the Republic United States, while cancelling all of Appellant's Adhesion Commercial Contracts, as is Appellant's God given right.**

In regards to the Corporate Fiction all CAPITAL LETTERED NAME, legally speaking, there is a term that identifies such entities; "ens Legis" Lat. A creature of law, an artificial being, as contrasted with a natural person. Applied to Corporations, considered as deriving their existence entirely from the law." *Black's Law Dictionary*, Fourth Edition (4th) 1951. In law a "person" is not flesh and blood, but artificial, a creature of law or contract. The alter-ego straw man is defined as a front a third party put up in name only, for the purpose of taking part in the transaction. The legal term describing such an entity is "stramineus homo" a Latin term defined as follows:

> A man of straw, one of no substance, put forward as bail or surety. *Black's Law Dictionary*, First Edition (1st) 1891.

The following statements explain without any doubt, why the Corporate UNITED STATES created all CAPITAL LETTERED LEGAL fictions. Let us step back from the fray and take in the whole macrocosm, that we call "modern civilization." It is fairly obvious that a thing created can never be greater than the Creator that brought it into existence. Please follow along with this syllogism:

1. God Created man, and rules over man; therefore, man can never be greater than, and can never rule over, God.
2. Man created government, an artificial entity, as a service facility; therefore government can never be greater than, and can never rule over, man.
3. Government then created corporations and corporately colored entities (also artificial persons), for the purpose of ruling over them (collecting revenue); therefore a corporation/corporately colored entity can never be greater than, and can never rule over, the government that brought it into existence.
4. Therefore: a corporate/corporately colored entity can never be greater than/rule over government; can never be greater than/rule over man; can never be greater than/rule over God.

Appellant is a flesh and blood human being, not a corporate fiction.

There are no regulations published in the Federal Register which extend authority for 18 U.S.C. §§ 1 through 12 or 3231 to the state republics.

The necessity for implementing regulations being published in the Federal Register is without question, ***California Bankers Ass'n v. Schultz***, 416 U.S. 21, 26, 94 S.Ct. 1494, 1500, 39 L.Ed.2d 812 (1974).

Courts are *sworn* to abide by the dictates of existing law and may not *deliberately* bypass explicit Congressional intent, ***Landano v. Rafferty***, 670 F.Supp 570, 583 (1987); and ***U.S. Constitution, Article VI, Clause 2***.

It was held in ***North Laramie Land Co. v. Hoffman et al***, 268 U.S. 276, 283 69 L.Ed (1925), as follows:

> All persons are charged with knowledge of the provisions of statutes and must take note of the procedure adopted by them and when that procedure is not reasonable or arbitrary there is no constitutional limitations relieving them from conforming to it.

"State" citizens have the right to expect prosecutors and other federal agents to know that their conduct in such cases violates statutory intent and Constitutional rights, as they are acting in clear absence of jurisdiction, ***Harlow v. Fitzgerald***, 457 U.S. 800, 819, 73 L.Ed.2d 396 (1982); ***Scheuer v. Rhodes***, 416 U.S. 232; ***Wood v. Strickland***, 420 U.S. 308, 322 (1975); ***Butz v. Economou***, 438 U.S. 478 (1978), 57 L.Ed.2d 895, 98 S.Ct. 2894.

It is the *duty* of the federal court to protect rights secured by the Constitution, ***Jennison v. Goldsmith***, 940 F.2d 1308 (9th Cir. 1991). Federal courts *cannot* countenance deliberate violations of basic Constitutional rights; to do so would violate the judicial oath to uphold the Constitution of the United States, ***Adamson v. C.I.R.***, 745 F.2d 541, 546 (9th Cir. 1984). Clearly, all federal personnel involved have been violating their oaths.

The Constitution, in *Article IV, § 4*, states:

> The United States shall guarantee to every State in this Union a Republican form of Government.

and the balance of that document well illustrates in detail the concept of separation of powers which is fundamental to our Republic, into Executive, Legislative, and Judicial Branches. The three might agree in principle or action, but, each of the three is separately bound under solemn oath and bond to safeguard our rights and be bound by our Constitution. While one Branch might fail in their "Duty," it is expected that the others would in turn act as a check and balance upon the error or usurpation. Appellant Expatriated the Corporate UNITED STATES and Repatriated into the Republic Union of the Several (50) States, eliminating the Legislative Democracy, as it pertains to Appellant. Appellant also Expatriated the Corporate UNITED STATES, giving up his U.S. citizenship and cancelled all Adhesion Contracts and corporate Franchises to government, which usually takes the form of a trust. Equity may also be a jurisdiction over any individual or thing that does not object or take exception thereto, and *ends* the moment the objection, or exception, is made on Constitutional grounds, which does "pierce the Corporate veil." dispense with the impermissible "chilling effect doctrine" and should prevent a manifest injustice to the party (Appellant) aggrieved. Hence, this live case or controversy in law, in fact, was established while the Corporate Legislative Tribunal UNITED STATES DISTRICT COURT, lacked subject-matter jurisdiction in equity upon or against the person and property of this Appellant; and is totally capable of repetition, if this Appeals Court fails to reverse and dismiss this case. According to the 40th Congress, Expatriation is a natural right, and natural rights cannot be legislated away or abridged. See ***Miranda v. Arizona***, 384 U.S. 436, 16 L.Ed.2d 694, 86 S.Ct. 1602 (1966). In his Expatriation documents Appellant made it perfectly clear that he was only Expatriating the Corporate UNITED STATES. The

United States Supreme Court held in ***Wisconsin v. Pelican Ins. Co.***, 127 U.S. 265, 8 S.Ct. 1370, 32 L.Ed 239,

> By the law of England and the United States the penal laws of a country do not reach beyond its own territory, except when extended by express treaty or statute to offenses committed abroad by its own citizens; and they must be administered in its own courts only, and cannot be enforced by the court of another country.

Further, "The government of the United States is foreign as to the States of the Union, within rule of private international law that penal statutes of one sovereignty will not be enforced by another. See also: ***Robinson v Norato***, 71 R.I. 25, 643 A.2d 467, 162 A.L.R. 362. Appellant thinks it is a well settled fact of law, that the UNITED STATES is a corporation, that Expatriation is a right, and that as a citizen of the Republic, he is a sovereign and entitled to *Substantive* Law and *Substantive* Due Process, which was *denied* Appellant in this instant case!

Appellant, as a sovereign citizen Michigan Republic was entitled as a matter of right to present his defense and call witnesses of his choice, and not present the defense that the Appellee and the District Court compelled Appellant to present, thereby preventing appellant's jury from having all the pertinent facts, before deciding the case, objectively and intelligently.

In ***McKaskle v. Wiggins***, 465 U.S. 168, 79 L.Ed.2d 122, 104 S.Ct. 944, the Supreme Court held:

> In determining whether a defendant's Sixth Amendment (Faretta) rights have been respected, the primary focus must be on whether he had a fair chance to present his case in his own way. First, the pro se defendant is *entitled* to preserve actual control over the case he chooses to present to the jury.

See also: ***Faretta v. California***, 422 U.S. 806, 45 L.Ed.2d 562, 95 S.Ct. 2525; The right is either respected or denied, and its deprivation *cannot* be harmless.

The Appellee in citing *Article III, Section 2* of the *United States Constitution* always convently excludes *arising under this constitution*, which is the vitality part of Article III, as it pertains to citizens of the Republic States, which guarantees the *Substantive* Law. The Common Law as defined in ***Hawaii v. Monkichi***, 190 U.S. 310, 48 L.Ed 195 (1903); see also ***Dairy Queen v. Wood***, 369 U.S. 469, 8 L.Ed.2d 44, 82 S.Ct. 894 (1962). Appellant has never knowingly or intentionally waived and explicitly reserves all natural unalienable rights, secured by the Constitution of the United states. In Federal court this legal right cannot be dispensed with by the determination by a Chancery Judge when the right to a jury trial of legal issues is ineluctable, as the submission of (legal) facts to a duly empaneled trier of facts under the Constitution is an Article III guarantee. Circumspectly there can be no lawful "presumption" used against a defendant to intimate that legislative enactments are supreme, over and above the Supreme Law of the Land. To deprive Appellant of substantive rights pursuant to the Fifth and Sixth Amendments is at total odds with the rulings of the U.S. Supreme Court. See ***Beacon Theatres v. Westover***, 359 U.S. 500, 3 L.Ed.2d 988, 79 S.Ct. 948 (1959); and ***Dairy***

***Queen v. Wood*, supra**, "only under the most imperative circumstances can the right to a trial of legal issues be lost through prior determination."

In ***Heiner v. Donnan***, 285 U.S. 312, 76 L.Ed. 772, 52 S.Ct. 358 (1932), the U.S. Supreme Court held:

> It is hard to see how a statutory rebuttable presumption is turned from a rule of evidence or of substantive law as a result of the later statue making it conclusive. In both cases it is a substitute for proof: in the one, open to challenge and disproof, and in the other conclusive. However, whether the latter presumption be treated as a rule of evidence or of substantive law, it constitutes an attempt, by legislative fiat, to enact into existence a fact, which here does not, and cannot be made, to exist in actuality, and the result is the same.

This Court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut, violates the Due Process Clause of the Fifth and Fourteenth Amendments. For example, "A Constitutional prohibition cannot be transgressed indirectly by creation of a statutory presumption, any more than it can be violated by a direct enactment." See also, ***Tot v. U.S.***, 319 U.S. 463, 87 L.Ed. 1519, 63 S.Ct. 1241 (1943); ***U.S. v. Bowen***, 414 F.2d. 1268, ***U.S. v. Simmons***, 416 F.2d 33, ***U.S. v. Perry***, 474 F.2d 983, ***U.S. v. Lake***, 482 F.2d 146, ***U.S. v. Belgrade***, 484 F.2d 915.

In general all presumptions other than conclusive presumptions are rebuttable presumptions. Once evidence tending to rebut the presumption is introduced, the force of the presumption is entirely dissipated and the party with the burden of proof must come forward with evidence to avoid a directed verdict. (See *Black's Law Dictionary*, 6th Ed.). All Appellant is and was demanding the fact that it is imperative that the jury understand "presumption" and how the "government" and its "courts" use the principle of presumption against the people, which is their right as the trier of facts, and Appellant's right to present it to the jury (presumptions), which must be rebutted for Appellant to receive a fair and impartial trial by jury.

IN CONCLUSION

"Sovereignty itself is, of course, not subject to law, for it is the author and source of law." ***Yick Wo v. Hopkins***, 118 U.S. 356, 6 S.Ct. 1064 (1886).

> Mr. Speaker, we are here in Chapter 11. Members of Congress are official Trustees, presiding over the greatest reorganization of any *Bankrupt* entity in world history, the U.S. Government.

Congressman James T. Traficant, Jr., Congressional Record, March 17, 1993, volume 33. There are many presumptions that Appellant would have been able to rebutt, before the jury, had he not, arbitrarily and capriciously, been denied his *rights*, guaranteed by the United States Constitution, to substantive due process and trial by jury, to name a few presumptions:

A. It is presumed that the U.S. Government is solvent, when in fact the Government is bankrupt. (6 Trillion dollars in debt).

B. It is presumed that the UNITED STATES DISTRICT COURT, is a Court of Constitutional due process. In fact, it is not.

C. It is presumed that the ALL CAPITAL LETTERED NAME is the flesh and blood human being. In fact it is a Corporate Fiction.

D. It is presumed that the "UNITED STATES" means the Union of the 50 Republic States. In fact it is a Corporate Trade Name.

E. It is presumed that the Federal Reserve and Federal Deposit Insurance Corporation (F.D.I.C.) are government agencies. In fact they are private Corporations of the Internal Bankers.

The above referenced presumptions are but a few that Appellant would have been able to rebut, and Appellant been afforded his rightfull legal remedy, regarding the Appellee and or Appellee's representatives acting and continue to act upon the "resumption" of a false conclusions of law, being made and passed off to this Appeal Court, as if legal, without a factual determination in law, by the true trier of fact, jury, to justify implementation of a bill of pains and penalties, by invoking the Legislative (analogous to Chancery) (maritime) Equity Jurisdiction, in rem and in personam. For all the statements and reasons presented by the Appellant in this case, this case must be reversed and dismissed. "Let Justice be done, even if the Heavens fall." Reason obeys itself, and the condition upon which God hath given man is eternal vigilance.

Dated: 5/28/2002

Respectfully Submitted,

/s/ Luther James McCaskill

Luther James McCaskill –
Pro-Per
c/o P.O. Box 1000 – F.C.I.
Milan, Michigan 48160

CERTIFICATE OF SERVICE

I, Luther James McCaskill, being of sound mind and body do hereby herein certify that I served two copies of the Reply Brief of Appellant on the Appellee, by placing same in the U.S. Postal Service, postage pre-paid, and addressed to:

Stephen T. Robinson
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226

Dated: May 27, 2002

/s/ Luther James McCaskill
Luther James McCaskill
c/o P.O. Box 1000 – F.C.I.
Milan, Michigan 48160

October 25, 2002

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
100 E. FIFTH STREET, ROOM 532
CINCINNATI, OHIO 45202-3988

Re: USA v. McCaskill
Case No. 01-2708

Dear Judges, Batchelder, Cole and Graham,

I am in receipt of your order in the above referenced case. After reading your order, three things are very much appearent, (1) you deliberately, arbitrarily and capriciously decided this case without reading my brief and reply brief, (2) you had no intention of addressing the issues I presented for review, or (3) you just decided the issues raised by the Government, in its appeal brief, which had nothing to do with the issues I raised on appeal. In yur order you judges attributed the Government's issues to me. I did not raise an abuse of the judge's discretion issue, nor did I mention any legislative or subject matter jurisdiction, the government did. You did address one of my issues albeit, not constitutionally. I would never be so asinine idiotic, or ignorant, as to appeal an abuse of discretion, as it pertain to some rule. I know I have human rights, and where there are rights secured and guaranteed by the Constitution of the several "Republic" States United, there can be no rule making to abrogate said human rights. After the District Court *raped* me of my human rights, I came to you for justice, and you arbitrarily, capriciously, deliberately, maliciously, with malice aforethought lynched me. You do not Honor the mandates of the United States Supreme Court!

Moreover, the Corporate Federal Terroristic-Judicial system is inflicting more terrorism on "we the people" than any other system on this planet earth. You judges of the corporate Federal Judiciary are nothing more than Charlatons, Film Flam artists and usurpers, violating the Constitution under "color of law". I have demanded to be tried in a court of record and Article III Court, as is my right. I will not be subjected to a proceeding in equity, where a Judge can take liberties with and of my rights as he wishes. In a court of record, a judge has no discretion, the judge *must* abide by the law. Discretion is reserved to the independent equity tribunal (UNITED STATES DISTRICT COURT). Many people, just as I have, today have come to realize, see and have experienced, the true nature of the Corporate Bankrupt Federal Government's Judicial System, where the people are brutally deprived of thier human rights, secured by the Constitution of the several states united. These Corporate Bankrupt Federal Government Courts have deliberately failed to maintain any semblance of the Constitutional (restrictive and limited) government of the people, by the people and for the people. Said federal government's Courts and, you Judges, Continue to inflict upon ne, and the people a foreign jurisdiction, and continue to breach your oaths to your contract (the Constitution) thereby enforcing an agenda that is strictly a socialistic/fascist corporate activity to regulate, control, tax, and enslave via martial rule in the aforestated foreign jurisdiction. Gods knows, you know and I know, it is totally unconstitutional!

In closing, I shall remain committed to the principles of Freedom, in our Constitution, and not corporate indentured servitude, foisted upon me by you criminals, under "color of law". I will and shall sacrifice my every waking moment, not to mention, family, friends and freedom in ordor to expose this *"treasonist"* criminal system for what it truely is, with a laser beam focus on freedom, where true liberty can once again reign. This corporate federal government and its courts has moved through and upon the people with such savagery, that the barons of 1215, who forced King John to sign the Magna Carta, and the American patriots such as Jerrerson, Henry, Mason, Munroe, and Harrison would have reached for their arms long ago had they been alive. I pray that you will, after reading this letter, address my issues presented on appeal, as I cannot appeal any order addressing the government's issues attributed to me. I have a right to have *My* issues reviewed on appeal.

Very Truly Yours,
/s/ Luther James McCaskill
Luther James McCaskill
c/o P.O. Box 1000-FDC
Milan, Michigan 48160

cc/ Stephen T. Robinson

RESERVATION OF RIGHTS BY AFFIDAVIT

I, Luther James McCaskill, herein now being of sound mind and body wish to let it be known to all that this Reservation of Rights by Affidavit document serves notice to the Court, all officers of the Court, all other public servants, and all other people and persons that are working for, or on behalf of, any public trust corporations (UNITED STATES, UNITED STATES OF AMERICA), that I know I have human rights, I can demand that those human rights are protected at all times by the Court. This document serves notice that I hereby reserve all my rights without prejudice and order the Court and related people and persons to recognize, honor, and protect all of my rights, both today and forever as is in accordance with the Constitution of the United States of America. Furthermore, a quo warranto (demand for proof authority) is placed upon all actions that are taken against me that might cause me a legal disability be it now or at anytime in the future. I do swear.

This is official notice that I reserve all my rights without prejudice. I refuse this or any other court, public servant, or person the right to take any liberties with my rights. I do not consent in any way to have my rights infringed upon. I do not give permission to construe anything I say or do as permission to prejudice any of my rights. Any lack of knowledge of the law on my part at this time relating to my rights shall not be construed as permission to take any liberties with any of my rights. Before God, I make and proclaim this statement of my reservation of rights as fact and I order all public service people and persons to abide by it. Any and all infringement upon my rights shall serve notice as prima facie evidence of intent to violate the law. If any action is taken against me that causes me a disability and it is later determined that said actions, lack thereof, or any part thereof, are based on "policy" and not law, this document shall serve as prima facie evidence of intent to willfully violate the law. Each violation of my rights shall create a separate claim for damages, which shall be deemed immediately due and payable to the injured party. Any violation of my rights, of failure to stop another from violating them, by a public servant, who has a legal duty and power to protect those rights shall constitute a crime. Such crime shall serve as prima facie evidence that said public servant does intend to, and shall create claims on behalf of the injured party for damages. Said actions shall create a claim for damages that can be collected by filing a suit under the jurisdiction of the Uniform Commercial Code for violation of my common law rights, in the local Federal Court. Any violation of my rights shall also serve notice and as prima facie evidence that said public servant intends for the injured party to file a depravation of rights suit directly in administrative (Federal) court for the incorporated UNITED STATES government for further redress of injuries. All claims shall be valid and enforceable simultaneously as allowed by law. **See *Norton v. Shelby County***, 118 U.S. 425, 30 L.Ed. 178, 6 S.Ct 1121 (1886). An unconstitutional act is not law, it confers no rights, it imposes no duty, it affords no protection, it creates no office, it is in legal contemplation, as or inoperative as though it had never been passed. I do swear.

In ***Owen v. Independence***, 100 S.Ct. 1398, 445 U.S. 622, 63 L.Ed.2d 673 (1980), the U.S. Supreme Court held that, "officers of the court have no immunity when violating a constitutional right, from liability, for they are deemed to know the law. The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. **See *West Virginia State Board of Education v. Barnette***, 319 U.S. 624, 638, 87 L.Ed. 1628, 1638, 63 S.Ct. 1178 (1943). One's right to life, liberty, property, free speech, free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections. **See *Jones v. Counce***, 7 F.3d 1359 (8th Cir.

1993); **Benitez v. Wolfe**, 985 F. 2d 662 (2nd Cir. 1993). Qualified immunity defense fails if public officer violates clearly established right because a reasonably competent official should know the law governing his conduct. Rights are neither accorded to the passive resistant nor the person who is ignorant of his rights not to the one indifferent thereto. It is a fighting clause, its benefits can only be retained by sustained combat. It cannot be claimed by an attorney or solicitor. It is valid only when insisted upon by a belligerent claimant in person. **See *United States v. Johnson***, 76 F.Supp. 538. "Without prejudice" UCC I-207, in connection with my signature. I am saying: "I reserve my right not to be compelled to perform under any contract or commercial agreement that I did not enter knowingly, voluntarily, and intentionally. And furthermore, I do not accept the liability of the compelled benefit of any unrevealed contract or commercial agreement. The sufficiency of the reservation: any expression indicating an intention to reserve rights, is sufficient, such as "without prejudice" (UCC 1-207.4) or "All rights reserved," the making of a valid reservation of rights preseves whatever rights the person then possesses, and prevents the loss of such rights by application of concepts of waiver or estoppel. (U.C.C. I-207.7) I do swear.

This document is *law* and *must* be obeyed by anyone who has a public servant job and in particular any and all public servants who have taken an oath to uphold the Constitution of the United States of America. I do swear.

Whereas, the exercise of a natural right needs no authority in America other than the Constitution. Since this is the underlying principle of all American law upon which this accused is standing. The issue of lawful authority over the body and other properties of this accused cannot be ignored. I, Luther James McCaskill, reserve all rights given me by God, and secured and protected by the Constitution for the Republic Union, which places definite and unbridgeable limits upon the law making and enforcement abilities of any government body or corporate entity operating in accordance with and under color of American law. I reserve and exercise my sovereign power to demand that the UNITED STATES DISTRICT COURT provide full disclosure of the source of the authority upon which all actions are taken. Full disclosure means; absolute in detail from its source. Under American law I truly recognize that codes, rules, and statutes are only administrative in nature and are not actual constitutional laws with proper enacting clauses. Such codes, rules, and statutes, as applied as mandatory obligations to this accused, in which this accused is placed under a legal disability (rights are limited or denied without lawful authority), over the objections of this accused, or through fraud and deception, is an act of *slavery*. I object to, and reserve the right not to be subjected to *slavery*, and reserve all lawful rights of redress for any act of slavery imposed upon me. I do swear.

FURTHER NOTICE: Whereas the UNITED STATES Federal Government operates upon some other system of law, other than the constitutionally mandated common law in which this accused has rights secure in the Bill of Rights. I therefore demand to know the following: (1) Exactly what system of law is the United States Government operating under; (2) What system of law is being used to limit my rights, if different from constitutional law; (3) What system of law am I being prosecuted for violating, if different from common law; (4) what system of law am I being prosecuted under, and how does that system of law apply to me? I understand my self to be a flesh and blood human man with all the rights given to me by God, and secured and protected by the Constitution for the Republic Union known as the United States of America. I *must* remind this Court that there is no "half-pregnant" in the law and to deny me access to the Supreme Court mandated Constitutional law and thereby access to a (relevant) defense, wherein an obligation such as a debt or service obligation (probation, jail, or prison) is forced upon me, is in law and act and declaration of slavery against me (42 U.S.C. §1994) "directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, are declared null and void." I further remind this Court that pursuant to law, actors engaged in any form of *slavery*, lose all immunities from criminal prosecutors and civil judgments, and any corporation, municipal or otherwise, that condones any act of *slavery* by any of its agents or employees, is subject to civil judgments under the law. If this Court cannot or will not comply with an American and internationally recognized, in law, and commercial mandate of full disclosure, then I demand this Court dismiss its claim upon its own motion because UNITED STATES OF AMERICA, through its representative, failed to state a claim upon which I am obligated, to grant relief and further failed to state a claim in a court of competent jurisdiction to grant obligatory relief. The corporate UNITED STATES Government is involved in using its courts and jails/prisons as tools for an extremely unconstitutional venture. I herein now, state that being subjected over my *expressed objections*, to such a system of codes, rules, statutes, and the accompanying enforcement court system is an act of *slavery*. I am again noticing everyone that I reserve the God-given and lawfully protected rights that is endowed upon me and all mankind not to be subjected to slavery. This corporate Federal government has given its prosecutors a free hand to deprive American citizens of their lives, liberty, and property often with the blessings and support of the judicial system that was to protect citizens. How can the citizens protect their rights when the courts, which were designed to protect, are misrepresenting and misquoting the facts, misquoting case law, ignoring mandated law without any fear of repercussions? The unbridled prosecutor and judge has free rein to run roughshod over the people's rights. Not only has the people's right to be secure in their person, property, and effects suffered but their "due process" rights are all eviscerated from this travesty of justice. Limiting government powers is what the Constitution was designed for; to ensure that at all times the rights of the people are protected. By exempting itself from the Law of the Land, this Court and the government violates the fundamental basics of our Constitutional Republic. I do swear.

Whereas, it is a matter of right that one may demand to be tried in a court record. By sheer definition, that means the Court must proceed according to common law (not the statutory law). The only way this Court can suspend that right is by prior agreement of the parties. I have signed no such agreement, knowingly and intelligently or implied by failure to object. I demand to be tried in a Court of record. I am not a member or a participant in either the Armed Forces of the United States or military service; or that of any other nation, country or republic. Further, I am not a "resident" or "citizen of the UNITED STATES," nor a "resident of Washington" D.C. Nor have I ever knowingly elected to be treated as such. I have never waived or given up any of my rights. I have no lawful contracts, nor do I enjoy any privileges or benefits which attach and involve myself to the corporate capacity of the UNITED STATES Government, therefore I am a nonresident in relation to the corporate UNITED STATES government. I, Luther James McCaskill, was natural born in Grenada County, Mississippi on July 13, 1944. I am of lawful age and a competent (sui juris) natural judicial power American citizen of the State of Michigan, one of the Republic States party to the Constitution of the United States of America. I am not an artificial corporate person created by the 1935 "Social Security" Act. I am not under the provisions of the Constitution's Article IV, Section 3, Clause 2; nor am I a person as described in Title 26, U.S.C. and/or Title 42 U.S.C. § 301, Section 1101(a)3. I can stand on my rights secured by the Constitution, as a citizen, as further explained and defined by the United States Supreme Court in ***Hale v. Henkel***, 201 U.S. 43, 50 L.Ed. 652, 26 S.Ct. 370 (1906). 1 am also a judicial power citizen, as found in ***Paul v. Virginia***, 8 Wallace 168, 177:

> The answer which readily occurs to the objection founded upon the first clause consist in the fact that corporations are not citizens within its meaning. The term citizens as then used applies only to natural persons, members of the body politic, owing allegiance to the state, not artificial persons created by the legislature and possessing only the attributes which the legislature has prescribed.

I am governed only by God and the law of this land, which is the Constitution of the Union of Republic States. I am not a juristic person, subject to legislative dictum enforced by non-Article III Legislative Tribunals/Courts proceeding in equity to deprive/usurp common law rights, law of the Land means the "common law."

WHEREAS, since I began living, my oath of allegiance is now and has always been to the Republic of "We the People," and to the United States of America, under the will of God, for which they stand, and now as always, I stand ready with my life, liberty, and property, to enforce, defend, and protect the judicial power, the common law, and the sovereignty of "We the People" and the Republic Union, from both alien, foreign, and domestic enemies. Further, to be a natural man and citizen, as such attached to the principles of the Constitution of Union of Republic States known as the United States of America, respecting the God given unalienable rights of all God's people, and God's law of nature, any other allegience is *Treason*. Therefore, in respect to the aforementioned, I, citizen/sovereign, Luther James McCaskill, do swear that I shall and will support the Constitution of the United States of America and its Bill of Rights (1789 and 1791).

VERIFICATION BY ASSEVERATION

In witness, knowing the law of bearing false witness before my Creator and fellow man having first hand knowledge of the fact herein, being of majority age, I solemnly aver that I have read the foregoing affidavit, information, and disclosure. I declare, certify and verify that the aforementioned and foregoing is true, correct, certain, complete, and not misrepresented, to the best of my belief, understanding, and knowledge. So help me God Almighty.

Sealed by my voluntary act of my own hand in the Republic of Michigan, County of Washtenaw. This 20th day of September, 2002.

/s/ Luther James McCaskill
Luther J. McCaskill
c/o P.O. Box 1000-F.C.I.
Milan, Michigan 48160

WITNESSES:

/s/ S.J. Maksimowicz
S.J. Maksimowicz

/s/ Terrence M. Brown
Terrence M. Brown

STATE OF MICHIGAN)
) ATTEST
WASHTENAW COUNTY)

Before me, S.J. Maksimowicz, a Notorial Officer, properly appointed, privately bonded, by the authority of the State of Michigan, Monroe County, there appeared personally before me, Luther James McCaskill, being known to me, in my presence, set his hand jurat and seal herto on the, 20th day of September, 2002. Attested by my jurat and seal affixed herto.

Notary Public ________ County
My Commission Expires: _____
/s/ S.J. Maksimowicz
S.J. Maksimowicz
Notary Public, Monroe County, MI
My Commission Expires Mar 1, 2004

CASE NO. 01-2708

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA
Plaintiff-Appellee

LUTHER MCCASKILL
A Corporate Fiction
Defendant-Appellant

Luther James McCaskill
Creditor, Secured Party, Third Party Intervenor
Respondent Accused-Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF MICHIGAN
AT DETROIT DISTRICT COURT NO. 0080239

AFFIDAVIT IN SUPPORT OF LETTER CONSTRUED AS A PETITION FOR REHEARING AND STATEMENTS OF FACTS AND LAW

Luther James McCaskill, pro-per
c/o P.O. Box 1000-FDC
Milan, Michigan 48160

AFFIDAVIT IN SUPPORT OF LETTER CONSTRUED AS PETITION FOR REHEARING AND ARGUEMENTS OF FACTS

I, Luther James McCaskill, herein now being of sound mind and body wish to let it be know, this brief is presented to this Court for Appellant's Rehearing in order that Appellant's Issues presented for review can be clearly understood so said issues can be addressed and answered in accordance with Constitutional Law as mandated by the

Supreme Court of the Untied States of America, which are ineluctable and cannot be eviscerated or rendered inefficacious by the Government of The Federal United States. Appellant original issues with further arguements of Law and Facts are as follows, I Do Swear:

1. WHETHER THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN, WAS WITHOUT JURISDICTION OVER APPELLANT, A SOVEREIGN CITIZEN MICHIGAN REPUBLIC, AS THE CONSTITUTION OF THE UNITED STATES DOES NOT GIVE THE CONGRESS OF THE UNITED STATES THE AUTHORITY TO ESTABLISH ADMIRALTY, MARITIME AND/OR ADMINISTRATIVE JURISDICTION, ENLARGING THE POWER AND CHARACTER OF THE NON-ARTICLE III LEGISLATIVE TRIBUNAL UNITED STATES DISTRICT COURT, REDUCING SOVEREIGN CITIZENS OF THE REPUBLIC STATES TO MERCHANT CORPORATE FICTIONS AND ENEMIES OF THE UNITED STATES.

Whereas, the UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN IS NOT AN ARTICLE III COURT OF CONSTITUTIONAL DUE PROCESS. Appellant has a right to be brought before a Constitutional Court of due process as article III Court. Congress may not expand the Jurisdiction of the Federal Courts beyond the bounds established by the constitution. See: *Osborn v. President Directors & Co. of Bank,* 22 U.S. 738, 6 L.Ed. 204 (1824); *Mayor v. Cooper*, 73 U.S. 247, 18 L.Ed. 851 (1868); *Tennessee v. Davis*, 100 U.S. 257, 25 L.Ed. 648 (1880) Article III was designed to provide a hospitable forum in which persons enjoying rights secured under the Constitution could *assert* those rights. The drafters of the bill of rights surely intended that the particular beneficiaries of their legacy should enjoy rights legally enforcable in courts of law. See: *West Virginia Bd. of Education v. Barnette,* 319 U.S. 624, 638, 87 L.Ed. 1628, 63 S.Ct. 1178 (1943); *Valley Forge College v. Americans United,* 454 U.S. 464, 70 L.Ed.2d 700, 102 S.Ct. 752. Article III, which is every bit as important in its circumscription of the judicial power of the Untied States, as it is in granting of that power. Article III is not merely a troublesome hurdle to be overcome if possible so as to reach the merits of a lawsuit, which a party desires to have adjudicated, it is part of the basic charter promulgated by the framers of the Constitution at the convention in Philadelphia of 1787, a charter which created a general government, and was later amended so as to either enhance or limit its authority with respect to both states and individuals. The Supreme Court of the Republic United States has held that the Article III requirement of injury in fact, *must* be satisfied by a party without regard to applicable statutory pronouncements regarding standing of proper parties. Even if a statute expressly confers standing, the requirements of Article III, defining the Judicial powers of the Untied States remain and plaintiff still must allege a distinct and culpable injury. See: *Simon v. Eastern Kentucky Welfare Rights Organization,* 426 U.S. 26, 48 L.Ed.2d 450, 96 S.Ct. 1917 and *Gladstone realtors v. Bellwood,* 441 U.S. 91, 60 L.Ed.2d 66, 99 S.Ct. 1601 (1979). I do swear.

2. WHETHER THE CONGRESS OF THE UNITED STATES HAVE THE CONSTITUTIONAL AUTHORITY TO ESTABLISH THE FEDERAL CRIMINAL CODE AND FEDERAL RULES OF CRIMINAL PROCEDURE IN THE REPUBLIC STATES, CREATING A TOTALLY UNCONSTITUTIONAL LEGISLATIVE

DEMOCRACY, AND ESTABLISHING JURISDICTION OVER AREAS OF THE REPUBLIC STATES AND SOVEREIGN CITIZENS OF THE REPUBLIC STATES, WITHOUT SAID AREAS HAVING BEEN CEEDED TO THE UNITED STATES BY THE REPUBLIC STATES LEGISLATURES.

Whereas, Appellant has right to constitutional due process, redress of grievances, and the right not to be held in slavery or servitude, without being duly convicted according to all Human Rights secured and guaranteed by the Constitution of the Republic United States of America. The United States "government" is a coporation (See: 28 U.S.C. 3002(15)). Every coporation has its own acts, codes, ordinances, policies, procedures, rules, regulations and statutes. The contract that creates a trust or corporation or any artificial person, of whatever kind, hence the "United States government", must act within the powers and Framework of the Constitution of the several (50) Republic states United in America. Nothing in the Constitution grants the Congress the power or authority to create Federal Rules of Criminal Procedure, in order to eviscerate the Human Rights of the Sovereign citizens of the Republic states. Adult Human beings who are not children of the government, do not need anyone's permission to exercise natural inherent human rights. Natural Human Rights cannot be legislated away or abridged. Congress can pass no statute or rule to prevent Appellant from exercising said Human Rights. Everytime Appellant demanded his Human Rights in the District court, the Appellee and the Court, would raise some criminal rule to deny Appellant rights, all in violation of Constitutional Law as mandated by the Supreme Court of the United States. See: *Mirand v. Arizona,* 384 U.S. 436, 16 L.Ed.2d 694, 86 S.Ct. 1602 (1966). The "Democracy" in this country of ours is composed of all corporations To Wit: UNITED STATES, UNITED STATES OF AMERICA, STATE OF WHATEVER and so forth. The entire "Democracy" is pure fiction. A constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption anymore than it can be violated by a direct enactment. See: *Heiner v. Donnan,* 285 U.S. 312, 76 L.Ed. 772, 52 S.Ct. 358 (1932). In other words the government(s) have tricked the Appellant and the American people into doing all the things that they needed their "Fictional" citizens (all Capital LETTERED) to do, like an officer of a corporation carrying out the business of the corporation. This devisce and practice is committed via an offically authorized and court candoned subterfuge known as a "Legal Fiction", which is something assumed in law to be fact, irrespective of the truth or accuracy of that assumption. If a legislative body is without the power to enact a rule of evidence statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a Rule of Substantive Law. See: *Leiner v. Donnan,* supra. Those who framed our constitution and Bill of Rights were ever aware of and to subtle encroachments on individual liberty. They knew that "illegitimate and unconstitutional practices get their first footing by silent approaches and slight deviations from legal modes of procedure. See: *Boyd v. United States,* 116 U.S. 616, 635, 29 L.Ed. 746, 752, 6 S.Ct. 524 (1886). How can the district court, deny Appellant his basic Human Rights that are enshrined in our Constitution? The precious rights were fixed in our Constitution after centuries of persecution and struggle, and in the words of Chief Justice Marshall, they were secured "for ages to come, and designed to approach immortality as nearly as human in stitutions can approach it" See:

Cohens v. Virginia, 6 Wheat 264, 5 L.Ed. 257, 258 (1821). I do swear.

3. WHETHER THE CONGRESS OF THE UNITED STATES CAN USE THE NON-ARTICLE III LEGISLATIVE TRIBUNAL UNITED STATES DISTRICT COURT TO COMPEL THE OBSERVANCE OF ITS UNCONSTITUTIONAL JURISDICTION BY APPELLANT A SOVEREIGN CITIZEN MICHIGAN REPUBLIC, AS APPELLANT IS THE HOLDER IN DUE COURSE OF HIS CORPORATE LEGAL FICTION ALL CAPITAL LETTERED NAME AND APPELLANT HAS EXPATRIATED THE CORPORATE UNITED STATES AND REPATRIATED INTO THE REPUBLIC, CANCELLING ALL OF APPELLANT'S ADHESION COMMERCIAL CONTRACTS, AS IS APPELLANT'S GOD GIVEN RIGHT.

Whereas, "UNITED STATES, UNITED STATES OF AMERICA" is but an artificial corporate, dead, imaginary, non-existent purely statutory "Fiction" of law, so its laws are purely imaginary and is intended to deceive, defraud and trick Appellant and the American people into submission and slavery, which one enter via voluntary consent and commercial contract, through silence or lack of denial, protest and refusal, thus assumed, implied and inferred, unless rebutted. Human Rights can only be legislated away or abriged by contract. The framers of the Constitution knew that the pillars of the constitution (Bill of Rights) such as due process of law, equal protection, probable cause, etc. existed for thousands of years for "all mankind" (human beings) prior to the Republic United States Constitution. The constitution does not attempt to transform human beings into "property" controlled, manipulated and owned by the government. How are Human beings brought under contol of the government. Where is the contract? Where is the "mutuality of obligation"? What is equal, "good and valuable consideration" exchanged? Where is the 100% complete, correct and truthful "full disclosure" of all essential and material disclosures, facts and representations? Where is the acceptance and who accepted it? Where is the evidence of "voluntary consent will and volition"? Does it consist of the entire understanding of the parties? What are the "beginning and (especially) termination dates" (fixed known term). Where are the "signatures of the principal parties thereto. Appellant is a private unenfranched Human man, appellant is not a "Resident" (the property or thing) of the corporate United States Government. Appellant has cancelled all corporate adhesion. Contracts for lack of disclosure and fraud, and has expatriated his corporate FEDERAL UNITED STATES CITIZENSHIP, as is Appellant inherent Human Right. I do Swear.

4. WHETHER APPELLANT, A SOVEREIGN CITIZEN MICHIGAN REPUBLIC, COULD AS A MATTER OF RIGHT PRESENT HIS OWN DEFENSE OR BE COMPELLED INTO PRESENTING THE DEFENSE THAT THE APPELLEE AND DISTRICT COURT FORCED APPELLANT TO PRESENT, THEREBY PREVENTING APPELLANT'S JURY FROM HEARING ALL OF THE FACTS BEFORE DECIDING APPELLANT'S CASE.

Whereas, Congress cannot make or attempt any laws to annul any of the Human Rights and remedies of the America citizens in due course of law. Patrick Henry saw in the constitution many loopholes, which horrified him in 1787 and Mr. Henry vehemently opposed its adoption. Mr. Henry never let up until 1991, when the the peoples liberty became safeguarded by the "Bill of Rights." The Bill of Rights was the only recorse to prevent the serious transgressions he forsaw in the days and years to come. With all force of his great oratorical skill, Mr. Henry challenged his audience in the Virginia statehouse. Henry continued" Let Mr. Madison tell me when did liberty ever exist when the sword and the purse were given up from the people? Congress by the power of taxation and by raising of an army, have the sword and the purse, guard with jealous attention the public liberty! Suspect everyone who approaches that jewel. The least you can do is guard this Constitution with a Bill of Rights". The Bill or Rights, Mr. Henery, was prescribing, would require a strong prohibition written into it, in order to guard against Federal officials ability to interfere in anyway whatever, singularly or collectively with the people's Human Rights. It was understood by all at the time, that the prime reason for what we now call our "Bill of Rights" amendments, was to enter an interdiction, which would extricate Human Rights from the Federal Judiciary, Executive and Congress, thereby giving the people a chance at least to resist and arrest tyranny. The United States Supreme Court in *Faretta v. Califurnia,* 422 U.S. at 821, 45 L.Ed.2d 562, 95 S.Ct. 2525 held that "an accused has a Sixth Amendment Right to conduct his own defense." Faretta's holding was based on the longstanding recognition of a right of self-representation in federal and most state courts, and on the language, structure and spirit of the Sixth Amendment. Under that amendment, it is the accused, not counsel, who must be "informed of the nature and cause of the accusation," who has the right to confront witness, and *must* be accorded "compulsory process for obtaining witness in his favor." First the pro-se defendant is entitled to preserve actual control over the case he chooses to present to the jury. A defendant has a right to present his best defense. See: *Mckaskle v. Wiggins,* 465 U.S. 168, 79 L.Ed.2d 122, 104 S.Ct. 944. How can the District Court arbitrarily and capriciously deny Appellant his Human Rights through some Rule of Criminal Procedure? Congress nor the District Court can annul Appellant's Human Rights secured and guaranteed by the Constitution of the several states united. I do swear.

Whereas, any legal arguement that this Appellant file or present is not intended to be anti-government, tax protesting or the like. I truly advocate that one should support all constituted lawful government. I must demand my Human Rights, which is my resistance to tyranny and a legitimate sef-defense to a government and its courts and has become so corrupt that the government is no longer staying within the bounds of its constituted authority. As Madison noted: "If a Bill of Rights were incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; They will be an inpenetrable bulwark against every assumption of power in the legislative or executive; They will be naturally led to risist every encorachment upon rights expressly stipulated for in the Constitution by the declaration of Rights". *I Annals of Congress 439 (1789).* It is unequivocally clear from Mr. Madison's statements that every judge in every state has a duty to protect the Human Rights of the American citizens. The United States Supreme Court has held; "where rights are secured by the constitution are involved, ther can be no rule making or legislation which would abrogate them" See: *Miranda v. Arizona,* supra. The Supreme Court has held; "Human Rights guaranteed by the Constitution cannot be burdened by the commerce clause." See: *Draper v. United States,* 164 U.S. 240, 17 S.Ct. 107, 41 L.Ed. 419 (1896). Appellant as an american citizen is assured of substantive due process of law, being american common law process and forums, as contemplated by the "arising under" Clause at Article III, Section 2, Clause 1, and the *First, Fourth, Fifth, Sixth, Seventh, Ninth* and *Tenth* Amendments to the Constitution of the Republic United States of America. Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, and Federal Rules of Evidence, implement civil law, the law used by the United States District Court. The Fifth Amendment due process clause serves as an absolute ban, so far as this Appellant and the American people are concerned. The separation of powers contemplated by the Constitution assures that Legislative, Executive, and Judicial branches of government will operate totally independent, with each carrying out power delegated to it without assuming powers or delegating powers to other. See: *Morrison v. Olson,* 487 U.S. 654, 101 L.Ed.2d 569, 108 S.Ct. 2597 (1988). So far as Congress delegated power is concerned, Federal Rules of Procedure and Evidence go much further than simply making new law, those rules accommodate civil law, which is not authorized by the Constitution, and even if civil law was authorized, the merging of the law of equity and admiralty into single system, with unversal application, contrary to clear divisions set out in Article III, Section 2, Clause I, of the Constitution, would amount to Congress authorizing the Judicial Branch of the Federal government to uni-laterally amend the Constitution. The Constitution of the United States of America does *not* provide the judicial branch of the federal government a role in amending the Constitution. The district court and this Court *must* abide by the Constitutional mandates. Although the mystic languange identifying the Article IV United States District Court was not finalized until 1948, United States District Court (territorial Courts) have been around since the United

States began agressive expansion (1795). The true character of the courts and source of authority, was profoundly addressed by Chief Justice Marshall in the case of *American Insurance Co. v. 356 Bales of Cotton,* 1 pet 511, 7 L.Ed. 658, 26 U.S. 511 (1828) "These (territorial) courts then, are not Constitutional Courts in which the judicial power be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of the Clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States. To be sure, the District Court was well aware of its true power and limitation, but a more definitive statement which specifically addresses the "United States District Court" was made by the Supreme Court in, *Balzac v. Puerto Rico,* 258 U.S. 298,312, 66 L.Ed. 627, 41 S.Ct. 343 (1921) which leaves no doubt to its nature and jurisdiction: "The Uited States District Court is not the United States District Court established under Article III of the Constitution to Administer the Raw Judicial power of the United States therein coveyed. It is created by virtue of the Sovern Congressional Faculty, granted under Article IV, Section 3, of the instrument, of making all needful rules and regulation respecting the territory belonging to the United States." The District Court and this Court has allowed the government to remain silent, not address any constitutional issues, and you act on behalf of the government. How is that discharging your constitutional duty? The Supreme Court of the United States has continually declined to endorse the "Doctrine of Hypothetical Jurisdiction", where there is no Article III "case or controversy", which is the "irreducible constitutional minimum" for standing. See: *Steel Co v. Citizens For a Better Environment,* 523 U.S. 83, 118 S.Ct. 1003, 140 L.Ed.2d 210 (1998). A statutory question cannot be given priorty over an

Article III question. "Hypothetical Jurisdiction" produces nothing more than a hypothetical judgement. I do swear.

Whereas, all of the foregoing dictates that the district court and the appellee knowingly and willfully, with malice aforethought used their personal superior power, acting under color of law to arbitrarily, capriciously and deliberately deprive Appellant his Human Rights. The Record files and facts conclusively reflects that the district court and the appellee knowingly deprived this Appellant, his right to due process of law, his right to redress of grievances, his right to a fair trial, and his right to be secured in his person, all rights secured and guaranteed by the Constitution of the Republic United States of America. The District Court and the Appellee collectively participated in fruad, cheat, deceit, covin, conversion and high treason. This Appellant is not a slave, but for the last 32 months, Appellant has been forced into servidude, without being duly convicted, which is slavery, in violation of the Thirteenth (13th) Amendment of the Constitution of the Republic United States of America. This most insidious legal precept, however simple, reveals the source of more personal grief, misery, suffering, despair, chaos, and loss of liberty (totally unconstitutional) than can be presently imagined by nearly anyone outside the clutches of this illegal District Court. The District Court's illegality must be undressed past all the highfalutin, unconstitutionally applied rules, and through the looking glass, and into the sprawling spectacle of the most pervasive and all-consuming *confidence* game in the history of the world. The United States District Court is *not* a court of Constitutional due process, but a corporate commercial marketplace dealing in matters bearing exclusively upon the private commerical law of "UNITED STATES". I do swear.

Whereas, because of the malicious, deliberate and criminal actions of the district court in abridging, denying or totally modifying the substantive Human Rights of this Appellant, this Court must dismiss this case against Appellant. Every issue presented to this court for review by Appellant is a Human Rights issue, Human Rights that are Constitutionally secured, guaranteed and protected from adbrigement by any popular custom of a Federal Legal System. It is a matter of right, to be tried in an Article III Court, it is a matter of right to exercise Constitutionally secured rights and not be forced to forego said right in favor of Federal Rules of Criminal Procedure and the Aribitrary exercise of discretion by a federal judge. It is a matter of right to contract knowingly and willfully. It is a matter of right to expatriate the corporate UNITED STATES Citizenship, and it is a matter of right to present one's own defense, and not be forced into presenting some defense compelled upon one by someone else or some other entity. It is a matter of right mot to be put twice in jeopardy for some offense. In view of the fact that the district court and the appellee, criminally, abritrarily, capriciously, and maliciously conspired to illegally and unconstitutionally try and convict Appellant in violation of his Human Rights, and force Appellant into slaverly, this Court *must* dismiss this case. Therefore in respect to the foregoing, I, Luther James McCaskill, citizen/sovereign, do swear that I shall and will support the Constitution of the Republic United States of America and its Bill of Rights (1789 and 1791).

VERIFICATION BY ASSEVERATION

In witness, knowing the law of bearing false witness before my CREATOR and fellow man, having first hand knowledge of the facts herein, being of majority age. I solemnly aver that I have read the foregoing affidavit, information and disclosure. I declare, certify and verify that the aforementioned and foregoing is true correct, certain, complete and knowledge. So help me GOD ALMIGHTY.

Sealed by my voluntary act of my own hand in the Republic of Michigan, County of Washtenaw. This 25th day of November 2002.

/s/ Luther James McCaskill
Luther James McCaskill
c/o P.O. Box 1000-FDC
Milan, Michigan 48160

Witnesses:

/s/ Melody Joy Baker
Melody Joy Baker

/s/ Jose Elizondo
Jose Elizondo

State of Michigan)
) Attest
Washtenaw County)

Before Me, Melody Joy Baker, a notorail officer, properly appointed, privately bonded, by the authority of the State of Michigan, Monroe county, there appeared personally before me, Luther James McCaskill, being known to me, in my presence sat his hand jurat and seal hereto on the 25th day of November 20002 [sic]. Attested by my jurat and seal affixed hereto.

/s/ Melody Joy Baker Monroe
Notary Public

MELODY JOY BAKER
Notary Public – Michigan
Monroe County
My Commission Expires
Sep 9, 2006

My commission expire: 9-9-2006

CERTIFICATE OF SERVICE

I, Luther James McCaskill, hereby, herein certify that I served a copy of the foregoing on the Plaintiff, by placing same in the U.S. Mail, postage pre-paid, addressed to:

Stephen T. Robinson
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226

Dated: 11/25/02

/s/ Luther James McCaskill
Luther James McCaskill